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सं. 17]

नई दिल्ली, अप्रैल 17—अप्रैल 23, 2011, शनिवार/चैत्र 27—वैशाख 3, 1933

No. 17]

NEW DELHI, APRIL 17—APRIL 23, 2011, SATURDAY/CHAITRA 27—VAISAKHA 3, 1933

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए संविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India

(Other than the Ministry of Defence)

कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 13 अप्रैल, 2011

का. आ. 1083.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सिविकम राज्य सरकार के गृह विभाग गंगटोक की 21 जुलाई, 2010 की अधिसूचना सं. 70/गृह/2010 द्वारा प्राप्त सहमति से निम्नोक्त के संबंध में अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण सिविकम राज्य के संबंध में करती है :-

(क) भारत सरकार के कार्यों के संबंध में नियोजित जन सेवकों द्वारा तथा भारत सरकार के नियंत्रण में या कोई निगम, कम्पनी या स्वामित्व वाला बैंक या भारत सरकार द्वारा नियंत्रित हो, के अध्यधीन किसी स्थानीय प्राधिकरण के कार्यों के संबंध में नियोजित व्यक्तियों द्वारा किए गए अपराध :-

- भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी, 124-ए, 166, 167, 168, 169, 171-ई, 171-एफ, 182, 193, 196, 197, 198, 199, 200, 201, 204, 211, 218, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 263-ए, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 465, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477-ए, 489-ई, 489-बी, 489-सी, 489-डी, 489-ई, 500, 501, 502 तथा 505 के अंतर्गत दंडनीय अपराध ।
- यान-हरन निवारण अधिनियम, 1982 (1982 का अधिनियम सं. 65) की धारा 4 और 5 के अंतर्गत दंडनीय अपराध ।

3. पुरावशेष तथा बहुमूल्य कलाकृति अधिनियम, 1972 (1972 का अधिनियम सं. 52) की धारा 25 के अंतर्गत दंडनीय अपराध ।
4. केंद्रीय उत्पाद-शुल्क तथा नमक अधिनियम, 1944 (1944 का अधिनियम सं. 1) की धारा 9 और 17 के अंतर्गत दंडनीय अपराध ।
5. सीमा-शुल्क अधिनियम, 1962 (1962 का अधिनियम सं. 52) की धारा 132, 133, 134, 135 तथा 136 के अंतर्गत दंडनीय अपराध ।
6. आवश्यक वस्तु आधेनियम, 1955 (1955 का अधिनियम सं. 10) की धारा 7 और 8 के अंतर्गत दंडनीय अपराध ।
7. विदेशियों विषयक अधिनियम, 1946 (1946 का अधिनियम सं. 31) की धारा 14 के अंतर्गत दंडनीय अपराध ।
8. विदेशी अंशदान (विनियमन) अधिनियम, 1976 (1976 का अधिनियम सं. 49) की धारा 22, 23 तथा 25 के अंतर्गत दंडनीय अपराध ।
9. आयात-निर्यात (नियंत्रण) अधिनियम, 1947 (1947 का अधिनियम सं. 18) के अंतर्गत दंडनीय अपराध ।
10. भारतीय डाकघर अधिनियम, 1898 (1898 का अधिनियम सं. 6) की धारा 51, 52, 55 और 56 के अंतर्गत दंडनीय अपराध ।
11. भारतीय टेलीग्राफ अधिनियम, 1885 (1885 का 13) की धारा 27 के अंतर्गत दंडनीय अपराध ।
12. भारतीय बेतार टेलीग्राफ अधिनियम, 1933 (1933 का अधिनियम सं. 17) के अंतर्गत दंडनीय अपराध ।
13. बीमा अधिनियम, 1938 (1938 का अधिनियम सं. 4) की धारा 104 तथा 105 के अंतर्गत दंडनीय अपराध ।
14. उद्योग (विकास और विनियमन) अधिनियम, 1951 (1951 का अधिनियम सं. 65) की धारा 24 की उपधारा (1) की कलाज (III) के अंतर्गत दंडनीय अपराध ।
15. पासपोर्ट अधिनियम, 1967 (1967 का अधिनियम सं. 15) की धारा 12 के अंतर्गत दंडनीय अपराध ।
16. पासपोर्ट (भारत में प्रवेश) अधिनियम, 1920 (1920 का अधिनियम सं. 34) की उपधारा 3 के साथ पठित धारा 3 पासपोर्ट (भारत में प्रवेश) नियम, 1950 के नियम 6 के अंतर्गत दंडनीय अपराध ।
17. प्रस्त्यचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) के अंतर्गत दंडनीय अपराध ।
18. विदेशियों का रजिस्ट्रीकरण अधिनियम, 1939 (1939 का अधिनियम सं. 16) की धारा 5 के अंतर्गत दंडनीय अपराध ।
19. लोक प्रतिनिधित्व अधिनियम, 1950 तथा 1951 के अंतर्गत दंडनीय अपराध ।
20. तारयंत्र संबंधी तार (विधि विरुद्ध कब्जा) अधिनियम, 1950 (1950 का अधिनियम सं. 74) के अंतर्गत दंडनीय अपराध ।

(ख) उपर्युक्त उल्लिखित किन्ही अपराधों के संबंध में प्रयासों, दुष्क्रियों तथा षडयंत्रों तथा उसी संब्यवहार के अनुक्रम में किए गए अन्य अपराध या उन्हीं तथ्यों से उद्भूत मापला ।

(ग) वशर्ते कि जहां कोई जनसेवक सिक्किम सरकार के कार्यों के लिए नियोजित हो तथा सिक्किम सरकार के नियंत्रण में या कोई निगम, कम्पनी या स्वामित्व वाला वैकं या प्रिविकम सरकार द्वारा नियंत्रित हो, के अध्यधीन किसी अन्य प्राधिकरण के कार्यों के संबंध में नियोजित व्यक्ति जो कि ऊपर मद (क) (1) से (20) तथा (ख) में संदर्भित अपराधों से संबंधित हो, ऐसे अपराधों का दिल्ली विशेष पुलिस स्थापना द्वारा नियंत्रण करने के संबंध में राज्य सरकार की पूर्व सहमति प्राप्त करनी होगी ।

[सं. 228/59/2010-एकीडी-II]

बी. एम. रत्नम, उप सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 13th April, 2011

S. O. 1083.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Sikkim vide Home Department, Gangtok vide Notification No. 70/HOME/2010 dated 21st July 2010, hereby extends the powers and jurisdiction of the member of the Delhi Special Police Establishment to the whole of the State of Sikkim for investigation of the following :—

(a) Offences committed by public servants employed in connection with the affairs of the Government of India and persons employed in connection with the affairs of any local authority subject to the control of the Government of India or any corporation, company or bank owned or controlled by the Government of India :—

1. Offences punishable under sections 120-B, 124-A, 166, 167, 168, 169, 171-E, 171-F, 182, 193, 196, 197, 198, 199, 200, 201, 204, 211, 218, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 263-A, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 465, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477-A, 489-A, 489-B, 489-C, 489-D, 489-E, 500, 501, 502 and 505 of the Indian Penal Code, 1860 (Act No. 45 of 1860).
2. Offences punishable under sections 4 and 5 of the Anti-Hijacking Act, 1982 (Act No. 65 of 1982).
3. Offences punishable under section 25 of the Antiquities and Art Treasures Act, 1972 (Act No. 52 of 1972).
4. Offences punishable under section 9 and 17 of the Central Excise and Salt Act, 1944 (Act No. 1 of 1944).
5. Offences punishable under sections 132, 133, 134, 135 and 136 of the Customs Act, 1962 (Act No. 52 of 1962).
6. Offences punishable under section 7 and 8 of the Essential Commodities Act, 1955 (No. 10 of 1955).
7. Offences punishable under section 14 of Foreigners Act, 1946 (Act No. 31 of 1946).
8. Offences punishable under section 22, 23 and 25 of the Foreign Contribution (Regulation) Act, 1976 (Act No. 49 of 1976).
9. Offences punishable under the Imports and Exports (Control) Act, 1947 (Act No. 18 of 1947).
10. Offences punishable under sections 51 and 52, 55 and 56 of the Indian Post Office Act, 1898 (No. 6 of 1898).
11. Offences punishable under section 27 of the Indian Telegraph Act, 1885 (No. 13 of 1885).
12. Offences punishable under the Indian Wireless Telegraph Act, 1933 (Act No. 17 of 1933).
13. Offences punishable under sections 104 and 105 of the Insurance Act, 1938 (Act No. 4 of 1938).
14. Offences punishable under Clause (iii) of the sub-section (1) of Section 24 of the Industries (Development and Regulation) Act, 1951 (Act No. 65 of 1951).
15. Offences punishable under section 12 of the Passport Act, 1967 (Act No. 15 of 1967).
16. Offences punishable under Rule 6 of the Passport (Entry into India), Rules, 1950 read with sub-section 3 of the Section 3 of the Passport (Entry into India) Act, 1920 (Act No. 34 of 1920).
17. Offences punishable under the Prevention of Corruption Act, 1988 (Act No. 49 of 1988).
18. Offences punishable under section 5 of the Registration of Foreigners Act, 1939 (Act No. 16 of 1939).
19. Offences punishable under the Representation of Peoples Act, 1950 and 1951.
20. Offences punishable under the Telegraph Wires (Unlawful Possession) Act, 1950 (Act No. 74 of 1950).

(b) Attempts, abetments and conspiracies in relation to or in connection with any of the offences mentioned above and any other offences committed in the course of the same transaction arising out of the same facts.

(c) Provided that where public servants employed in connection with the affairs of the Govt. of Sikkim and persons employed in connection with the affairs of any authority subject to the control of the Government of Sikkim or any corporation, company or bank owned or controlled by the Government of Sikkim are concerned in Offences referred to in items (a) (1) to (20) and (b) above the prior consent of the State Government shall be obtained for the investigation of any such offence by the Delhi Special Police Establishment.

नई दिल्ली, 15 अप्रैल, 2011

का. आ. 1084.—केंद्रीय सरकार एतद्वारा अपराध प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए विशेष न्यायाधीश का न्यायालय, गुवाहाटी में श्री जे. एस. एल. वासवा, भारतीय प्रशासनिक सेवा (आय से अधिक सम्पत्ति संबंधी मामला) के विरुद्ध मामला सं. आरसी-1 (ए)/2007-एसी.यू.-V. तथा अपीलों, पुनरीक्षणों या इससे सम्बद्ध अन्य मामलों तथा उसी तथ्य से उद्भूत मामलों का संचालन करने के लिए श्री आई.डी. वैद्य, वकील को विशेष लोक अधियोजक के रूप में नियुक्त करती है।

[सं. 225/42/2010-एवीडी-II]

मनीषा सक्सेना, निदेशक (वी-II)

New Delhi, the 15th April, 2011

S. O. 1084.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri I. D. Vaid, Advocate, as Special Public Prosecutor for conducting Case No. RC 1(A)/2007-ACU-V against Shri JSL Vasava, IAS (Disproportionate assets case) in the Court of Special Judge, Guwahati and appeals, revisions or other matters connected therewith and incident thereto.

[No. 225/42/2010-AVD-II]
MANISHA SAXENA, Director (V-II)

नई दिल्ली, 19 अप्रैल, 2011

का. आ. 1085.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए रांची, झारखण्ड राज्य में दिल्ली विशेष पुलिस स्थापना (के.अ. ब्यूरो) द्वारा स्थापित मामलों तथा केंद्रीय अन्वेषण ब्यूरो द्वारा सौंपे गए परीक्षण न्यायालयों और अपीलों/पुनरीक्षणों अथवा विधि द्वारा स्थापित अपीलीय न्यायालयों या पुनरीक्षणों संबंधी मामलों से उद्भूत अन्य मामलों का संचालन करने के लिए नियोक्त वकीलों को विशेष लोक अधियोजक के रूप में नियुक्त करती है :-

सर्वश्री

1. सुशील रंजन दास	2. शिव कुमार @ काका
3. जगत नारायण सिंह	4. रोहित रंजन प्रसाद

[सं. 225/57/2010-एवीडी-II]

वी. एम. रत्नम, उप सचिव

New Delhi, the 19th April, 2011

S. O. 1085.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints following Advocates as Special Public Prosecutor for conducting the prosecution of cases instituted by the Delhi Special Police Establishment (CBI) in the State of Jharkhand at Ranchi as entrusted to them by the Central Bureau of Investigation in the trial courts and appeal/revisions or other matters arising out of these cases in revisional or appellate courts established by law.

S/Shri

1. Sushil Ranjan Das	2. Shiv Kumar @ Kaka
3. Jagat Narain Singh	4. Rohit Ranjan Prasad

[No. 225/57/2010-AVD-II]
V. M. RATHNAM, Dy. Secy.

औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण

नई दिल्ली, 18 अप्रैल, 2011

का. आ. 1086.—इस कार्यालय के समसंख्यक अधिसूचना दिनांक 29 सितम्बर, 2010 के क्रम में कृषि एवं सहकारिता विभाग कृषि मंत्रालय में स्थायी निजी सचिव श्री एम. पी. बालाकृष्णन का औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण में पूर्व संशोधित वेतनमान

रु. 10,000-325-15,200 संशोधित वेतन बैंड पी.बी. 3 रु. 15600-39100+6600 ग्रेड बैंड में प्रमुख निजी सचिव के रूप में की गई प्रतिनियुक्ति की अवधि पूर्व निबन्धनों और शर्तों सहित दिनांक 21-02-2011 पूर्वाहन से एक वर्ष दिनांक 20-02-2012 तक या अगले आदेश तक या इस प्राधि करण की समाप्ति तक, जो भी पूर्व घटित हो, बढ़ा दी गई है।

[मिसिल सं.-1/3/2007-प्रशा.]
दया नन्द, अवर सचिव

APPELLATE AUTHORITY FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION

New Delhi, the 18th April, 2011

S. O. 1086.—In continuation of this Authority's Notification of even number dated 29-09-2010, the tenure of deputation period of Shri M.P. Balakrishnan, a permanent PS of Ministry of Agriculture, Deptt of Agriculture & Cooperation, as Principal Private Secretary in the Pre-revised pay scale of Rs. 10,000-325-15,200, revised Pay Band PB-3 Rs. 15600-39100+6600 (Grade Pay) in this Authority, is extended for one year from 21-02-2011 to 20-02-2012 or till abolition of this Authority or until further orders, whichever is earlier, on the same terms and conditions.

[F. No. 01/03/2007-Admin.]
DAYA NAND, Under Secy.

सूचना एवं प्रसारण मंत्रालय

नई दिल्ली, 3 मार्च, 2011

का. आ. 1087.—इस मंत्रालय की दिनांक 10-11-2009 की समसंख्यक अधिसूचना के क्रम में और चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार श्री महिन्दर सिंह, सुपुत्र श्री पी. एस. चौहान, गांव और पी.ओ. गलेहा, तहसील कोटखई, जिला शिमला (हिमाचल प्रदेश) को दो वर्ष की अवधि के लिए या अगले आदेशों तक, इनमें से जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्य के रूप में नियुक्त करती है।

[फा.सं. 809/8/2009-एफ (सी)]
अमिताभ कुमार, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 3rd March, 2011

S.O. 1087.—In continuation of this Ministry's Notification of even number dated 10-11-2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Mahinder Singh, son of Shri P. S. Chauhan, Village and P.O. Galeha, Tehsil Kotkhai, District Shimla (Himachal Pradesh) as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/8/2009-F(C)]
AMITABH KUMAR, Director (Films)

नई दिल्ली, 9 मार्च, 2011

का. आ. 1088.—इस मंत्रालय की दिनांक 10-11-2009 की समसंख्यक अधिसूचना के क्रम में और चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार श्री आशिम विज, ए-134, न्यू फ्रेन्ड्स कॉलोनी, नई दिल्ली-110025 को दो वर्ष की अवधि के लिए या अगले आदेशों तक, इनमें से जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्य के रूप में नियुक्त करती है।

[फा.सं. 809/8/2009-एफ (सी)]
अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 9th March, 2011

S.O. 1088.—In continuation of this Ministry's Notification of even number dated 10-11-2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8

of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Ashim Vij, A-134, New Friends Colony, New Delhi-110025 as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/8/2009-F(C)]
AMITABH KUMAR, Director (Films)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 28 मार्च, 2011

का. आ. 1089.—केन्द्रीय सरकार, दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा (10) की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दंत-चिकित्सा परिषद के परामर्श से उक्त अधिनियम के अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, नामतः—

2. पंडित बीडी शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय, रोहतक द्वारा प्रदान की जाने वाली दंत चिकित्सा डिग्रियों को मान्यता प्रदान करने के संबंध में दंत-चिकित्सा अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम संख्या 84 के सामने कॉलम 2 तथा 3 की मौजूदा प्रविष्टियों में इसके पश्चात् निम्नलिखित प्रविष्टियाँ अंतर्विष्ट की जाएंगी :—

“III बी.आर.एस. दंत चिकित्सा महाविद्यालय, पंचकुला”

मास्टर ऑफ डेंटल सर्जरी

पेरीयोडोन्टोलाजी

(यदि दिनांक 16-6-2010 को या उसके पश्चात प्रदान की जाती है)।

प्रोस्थोडोटिक्स एवं क्राउन ब्रिज

(यदि दिनांक 12-6-2010 को या उसके पश्चात प्रदान की जाती है)।

पेडोडोटिक्स एवं प्रिवेंटिव डेंटिस्ट्री

(यदि दिनांक 16-6-2010 को या उसके पश्चात प्रदान की जाती है)।

ओरल तथा मेक्सिलोफेसियल सर्जरी

(यदि दिनांक 8-6-2010 को या उसके पश्चात प्रदान की जाती है)।

कन्जर्वेटिव डेंटिस्ट्री

(यदि दिनांक 12-6-2010 को या उसके पश्चात प्रदान की जाती है)।

एम डी एस (पेरीयोडोन्टोलाजी),
पंडित बीडी शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय,
रोहतक

एम डी एस (प्रोस्थोडोटिक्स),
पंडित बीडी शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय,
रोहतक

एम डी एस (पेडोडोटिक्स),
पंडित बीडी शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय,
रोहतक

एम डी एस (ओरल तथा मेक्सिलोफेसियल सर्जरी),
पंडित बीडी शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय,
रोहतक

एम डी एस (कन्जर्वेटिव डेंटिस्ट्री),
पंडित बीडी शर्मा स्वास्थ्य विज्ञान विश्वविद्यालय,
रोहतक”

[फा. सं. वी.-12017/11/2005-डी. ई.]

अनिता त्रिपाठी, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 28th March, 2011

S.O. 1089.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 84, in part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Pt. BD Sharma University of Health Sciences, Rohtak, the following entries shall be inserted thereunder :—

“III. B.R.S.Dental College, Panchkulla.**Master of Dental Surgery****Periodontology**

(If granted on or after 16-6-2010)

MDS, (Periodontology),

Pt. BD Sharma University of Health Sciences,
Rohtak.**Prosthodontics & Crown Bridge**

(If granted on or after 12-6-2010)

MDS, (Prostho.),

Pt. BD Sharma University of Health Sciences,
Rohtak.**Paedodontics & Preventive Dentistry**

(If granted on or after 16-6-2010)

MDS, (Pedo.),

Pt. BD Sharma University of Health Sciences,
Rohtak.**Oral & Maxillofacial Surgery**

(If granted on or after 8-6-2010)

MDS, (Oral Surgery),

Pt. BD Sharma University of Health Sciences,
Rohtak.**Conservative Dentistry**

(If granted on or after 12-6-2010)

MDS, (Cons. Dentistry),

Pt. BD Sharma University of Health Sciences,
Rohtak.”

[No. V. 12017/11/2005-DE]

ANITA TRIPATHI, Under Secy.

नई दिल्ली, 31 मार्च, 2011

का. आ. 1090.—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा (10) की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार भारतीय दन्त-चिकित्सा परिषद के परामर्श से उक्त अधिनियम के अनुसूची के भाग-I में निम्नलिखित और संशोधन करती है, नामतः—

2. रामा दंत चिकित्सा महाविद्यालय अस्पताल और अनुसंधान केन्द्र, कानपुर के संबंध में डा. बी. आर. अम्बेडकर विश्वविद्यालय, आगरा द्वारा प्रदान की जा रही दंत चिकित्सा डिग्रियों को मान्यता के बारे में दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम संख्या 58 के सामने मौजूदा कॉलम 2 तथा 3 की प्रविष्टियों में इसके पश्चात् निम्नलिखित प्रविष्टियों को अंतर्विष्ट किया जाएगा :—

“दंत शल्य चिकित्सा स्नातकोत्तर

प्रोस्थोडॉटिक्स और क्राउन एवं ब्रिज

(यदि दिनांक 10-8-2010 को अथवा उसके पश्चात प्रदान की गई हो)।

एम डी एस (प्रोस्थोडॉटिक्स),

डा. बी. आर. अम्बेडकर विश्वविद्यालय, आगरा”

[सं. वी.-12017/44/2003-डी.ई (खण्ड-VI)]

सूबे सिंह, उप-सचिव

New Delhi, the 31st March, 2011

S.O. 1090.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 58, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Dr. B.R. Ambedkar University, Agra, the following entries in respect of Rama Dental College Hospital & Research Centre, Kanpur, shall be inserted thereunder :—

“Master of Dental SurgeryProsthodontics & Crown and Bridge
(If granted on or after 10-08-2010)

MDS, (Prostho.),

Dr. B.R. Ambedkar University, Agra”

[No. V. 12017/44/2003-DE (Vol. VI)]

SUBE SINGH, Dy. Secy.

नई दिल्ली, 4 अप्रैल, 2011

का. आ. 1091.—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा (10) की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय दन्त-चिकित्सा परिषद से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित और संशोधन करती है, नामतः—

2. महर्षि दयानन्द सरस्वती विश्वविद्यालय, रोहतक द्वारा प्रदान की जा रही दंत चिकित्सा डिग्रियों को मान्यता के बारे में दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम संख्या 25 के सामने मौजूद कॉलम 2 तथा 3 की प्रविष्टियों में इसके पश्चात् निम्नलिखित प्रविष्टियों को अंतर्विष्ट किया जाएगा :—

“V पीडीएम दंत चिकित्सा महाविद्यालय और अनुसंधान संस्थान, बहादुरगढ़

(i) दंत शल्य चिकित्सा स्नातक

(यदि दिनांक 27-8-2010 को अथवा उसके पश्चात प्रदान की गई हो)।

वीडीएस, महर्षि दयानन्द विश्वविद्यालय, रोहतक”

[सं. वी.-12017/108/2005-डीई]

अनीता त्रिपाठी, अवर सचिव

New Delhi, the 4th April, 2011

S.O. 1091.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 25, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Maharshi Dayanand University, Rohtak, the following entries shall be inserted thereunder :—

“V. PDM Dental College & Research Institute, Bahadurgarh.

(i) Bachelor of Dental Surgery
(If granted on or after 27-8-2010)

BDS
Maharshi Dayanand University, Rohtak”

[F. No. V. 12017/108/2005-DE]
ANITA TRIPATHI, Under Secy.

नई दिल्ली, 4 अप्रैल, 2011

का.आ. 1092.—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के बाद उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है नामतः—

उक्त प्रथम अनुसूची में ‘मान्यताप्राप्त चिकित्सा अर्हता’ [कालम (2) में] और ‘राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय बंगलौर, कर्नाटक’ के समक्ष “पंजीकरण के लिए संक्षिप्त रूप” शीर्षक के अंतर्गत [कॉलम (3) में] निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः—

(2)

बैचलर ऑफ मेडिसिन एंड बैचलर ऑफ सर्जरी

(3)

एम.बी.बी.एस.

(यह एसएस चिकित्सा विज्ञान एवं अनुसंधान केंद्र संस्थान देवांगे, कर्नाटक में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय, बंगलौर, कर्नाटक द्वारा जनवरी, 2011 में या इसके बाद प्रदान की गई चिकित्सा अर्हता मान्यताप्राप्त होगी)

[सं. यू. 12012/114/2004-एमई (पी-II)]

अनीता त्रिपाठी, अवर सचिव

New Delhi, the 4th April, 2011

S.O. 1092.—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said First Schedule against “Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka” under the heading ‘Recognised Medical Qualification’ [in column (2)], and under the heading “Abbreviation for Registration” [in column (3)], the following shall be inserted, namely:—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka on or after January, 2011 in respect of students trained at S.S. Institute of Medical Sciences & Research Centre, Davangere, Karnataka).

[No. U. 12012/114/2004-ME (P-II)]

ANITA TRIPATHI, Under Secy.

नागर विमानन मंत्रालय

(एआई अनुभाग)

नई दिल्ली, 15 अप्रैल, 2011

का. आ. 1093.—सार्वजनिक लोक उद्यम विभाग के कार्यालय ज्ञापन संख्या 9(22)/2005-जी.एम. दिनांक 13 अप्रैल, 2010 में निहित अनुदेशों की शर्तों तथा नेशनल एविएशन कंपनी ऑफ इंडिया लिमिटेड (अब एअर इंडिया लिमिटेड) के संगम अनुच्छेद के खंड 98 के तहत शक्तियों का प्रयोग करते हुए, राष्ट्रपति दिनांक 18 मार्च, 2011 से एअर इंडिया लिमिटेड के निदेशक मण्डल से श्री डॉ. अमित मित्रा का त्याग-पत्र स्वीकार करते हैं।

[सं. एवी-18013/07/2007-एआई]
एस. के. छिकारा, अवर सचिव

MINISTRY OF CIVIL AVIATION

(AI SECTION)

New Delhi, the 15th April, 2011

S. O. 1093.—In exercise of the powers conferred under Section 98 of the Articles of Association of the National Aviation Company of India Limited (now Air India Limited) and in terms of instructions contained in Department of Public Enterprises’ Office Memorandum No. 9(22)/2005-GM dated the 13th April, 2010, the President is pleased to accept the resignation of Dr. Amit Mitra from the Board of Directors of Air India Limited with effect from 18th March, 2011.

[No. AV-18013/07/2007-AI]
S. K. CHHIKARA, Under Secy.

नई दिल्ली, 18 अप्रैल, 2011

का. आ. 1094.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम 1976 के नियम-10 के उप नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनमें 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :

- एअर इंडिया लिमिटेड, निगमित मुख्यालय, मुम्बई
- भारतीय विमानपत्तन आर्थिक विनियामक प्राधिकरण, नई दिल्ली

[सं. ई-11011/10/2010-रा.भा.]
रोहित नंदन, संयुक्त सचिव

New Delhi, the 18th April, 2011

S. O. 1094.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government, hereby notifies the following offices under the administrative control of Ministry of Civil Aviation, whereof, more than 80% of the staff have acquired the working knowledge of Hindi :

1. Air India Limited, Corporate Office, Mumbai.
2. Airports Economic Regulatory Authority of India, New Delhi.

[No. E-11011/10/2010-OL]
ROHIT NANDAN, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक व्यूरो

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 1095.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे रद्द कर दिए गए हैं और वापस ले लिये गये हैं :

अनुसूची

क्रम सं.	रद्द किये गये मानक(कों) की संख्या, वर्ष और शीर्षक	भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
1.	आई एस 13399 : 1992 पशु आहार तथा भरण सामग्री — यूरिया अंश ज्ञात करना	का.आ. संख्या - तिथि -	आई. एस. 14832 : 2000/आई. एस. आ. 6654 : 1991 'पशु आहार — यूरिया अंश ज्ञात करना'

[संदर्भ : एफएडी/जी-128]

डॉ. आर. के. बजाज, वैज्ञानिक एक एवं प्रमुख (खाद्य एवं कृषि)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)
(BUREAU OF INDIAN STANDARDS)

New Delhi, the 15th April, 2011

S.O. 1095.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, it is, hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Cancelled	S. O. No. & Date published in the Gazette of India, Part-II, Section 3, Sub-section (ii)	Remarks
1.	IS 13399 : 1992 Method of test for animal feeds and feeding stuffs — Determination of Urea	S. O. No. Dated :	Superseded by IS 14832 : 2000/ISO 6654:1991 'Animal feeding stuffs — Determination of Urea'

[Ref : FAD/G-128]

Dr. R. K. BAJAJ, Scientist F & Head (Food & Agri. Deptt.)

कोयला मंत्रालय

नई दिल्ली, 20 अप्रैल, 2011

का.आ. 1096.—केन्द्रीय सरकार को यह प्रतीत होता है, कि इससे उपाबद्ध अनुसूची-क और अनुसूची-ख में उल्लेखित परिक्षेत्र की भूमि में से कोयला अभिप्राप्त किए जाने की संभावना है ;

अतः अब, इस अधिसूचना के अंतर्गत आने वाले रेखांक संख्या सी-1 (ई)III/एचआर/842-1110, तारीख 2 नवम्बर, 2010, उक्त अनुसूची में वर्णित भूमि का क्षेत्र के ब्यौरे दिए गए हैं, निरीक्षण, वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व विभाग), कोल इस्टेट, सिविल लाईन्स, नागपुर-440 001 (महाराष्ट्र) के कार्यालय में या मुख्य महाप्रबंधक (एक्सप्लोरेशन प्रभाग), केन्द्रीय खान योजना एवं डिजाइन संस्थान, गोडवाना प्लेस, कांके रोड, रांची के कार्यालय में या कोयला नियंत्रक, 1, कार्डिसिल हाऊस स्ट्रीट, कोलकाता-700 001 के कार्यालय में या जिला कलेक्टर, छिंदवाड़ा (मध्य प्रदेश) के कार्यालय में किया जा सकता है ;

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20), (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

उक्त अनुसूची में विहित भूमि में हितबद्ध कोई व्यक्ति -

(i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप, या

(ii) भूमि या ऐसी भूमि पर कोई अधिकार के प्रतिकर के हित के यदि कोई दावा, या

(iii) खनन पट्टा अर्जन करने के अधीन अधिकारों की पूर्वेक्षण अनुज्ञित प्रभावहीन हो जाने और भूमि संबंधी सभी नक्शे, चार्ट्स तथा अन्य दस्तावेजों का परिदान, अयस्कों या अन्य खनिजों के नमूनों का संग्रहण और उनका सम्पूर्ण विश्लेषण करने के लिए तथा उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट कोई अन्य कलावधि अभिलेखों या सामग्रियों की तैयारी के लिए प्रतिकर ।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिनों के भीतर, मुख्य महाप्रबंधक, वेस्टर्न कोलफील्ड्स लिमिटेड, कहान क्षेत्र, डाकघर-दुंगरिया, तहसील जुनारदेव, जिला छिंदवाड़ा-480 553 (मध्य प्रदेश) या महाप्रबंधक (भूमि और राजस्व), वेस्टर्न कोलफील्ड्स लिमिटेड, राजस्व विभाग, कोल इस्टेट, सिविल लाईन्स, नागपुर-440 001 (महाराष्ट्र) को भेजेगी ।

अनुसूची - "क"

मावरी अंडरग्राउंड माईन

कहान क्षेत्र

जिला-छिंदवाड़ा (मध्य प्रदेश)

(रेखांक संख्या : सी-1 (ई)III/एचआर/842-1110, तारीख 2 नवम्बर, 2010)

क्रम सं.	ग्राम का नाम	पटवारी सर्किल संख्या	तहसील	जिला	क्षेत्रफल (हेक्टेयर में)	टिप्पणियां
1.	मावरी	50/6	परासिया	छिंदवाड़ा	14.128	भाग
2.	घोघरी रैयतवारी	50/7	परासिया	छिंदवाड़ा	24.246	भाग
3.	घोघरी रैयतवारी	50/7	परासिया	छिंदवाड़ा	47.334	भाग
कुल क्षेत्रफल :			85.708 हेक्टेयर (लगभग)			
या			211.784 एकड़ (लगभग)			

अनुसूची - "ख"

मावरी अंडरग्राउंड माईन

कर्हान क्षेत्र

जिला-छिंदवाड़ा (मध्य प्रदेश)

(रेखांक संख्या : सी-1 (ई)III/एचआर/842-1110, तारीख 2 नवम्बर, 2010)

क्रम सं	ग्राम का नाम	वन का नाम	पटवारी संकेत संख्या	पुराना कक्ष क्रमांक	नया कक्ष क्रमांक	तहसील	जिला	क्षेत्रफल (हेक्टेयर में)	टिप्पणियां
1.	नकटीया	-	XXXII	पी-15 बी	472 बी	जुन्नारदेव	छिंदवाड़ा	55.957	संरक्षित वन (भाग)
2.	-	दोभन पठार	XLIII और XLVIII	15	472	जुन्नारदेव	छिंदवाड़ा	17.734	संरक्षित वन (भाग)
3.	-	समनवारा बर्रा	XXX और XXXIX	16-ए	473	जुन्नारदेव	छिंदवाड़ा		
4.	-	ब्लॉक नं. 10	-	-	-	परासिया	छिंदवाड़ा	49.065	संरक्षित वन (भाग)
5.	अंबाड़ा	ब्लॉक नं. 10	-	-	-	परासिया	छिंदवाड़ा	27.608	संरक्षित वन (भाग)
6.	मावरी	-	50/6	-	-	परासिया	छिंदवाड़ा	22.987	राजस्व वन (भाग)
7.	घोघरी रैयतवाड़ी	-	50/6	-	-	परासिया	छिंदवाड़ा	0.035	राजस्व वन (भाग)

कुल क्षेत्र : 273.386 हेक्टेयर (लगभग)

या 675.537 एकड़ (लगभग)

अनुसूची - "क" + अनुसूची - "ख" = कुल क्षेत्रफल

85.708 + 273.386 = 359.094 एकड़ (लगभग)

211.784 + 675.537 = 887.321 एकड़ (लगभग)

सीमा वर्णन :

अनुसूची - "क"

क-ख-ग रेखा ग्राम अंबाड़ा में बिन्दु "क" से आरंभ होती है और बिन्दु "ख" और बिन्दु "ग" के पास से गुजरती हुई आरंभिक बिन्दु "क" पर मिलती है।

अनुसूची - "ख"

घ-ड रेखा दोभन पठार आरक्षित वन में बिन्दु "घ" से आरंभ होती है फिर अंबाड़ा आरक्षित वन और घोघरी रैयतवारी आरक्षित वन से होकर गुजरती है और बिन्दु "ड" पर मिलती है।

ड-च-छ रेखा ग्राम घोघरी रैयतवारी और ग्राम मावरी से होकर गुजरती है फिर बिन्दु "च" के पास से गुजरती हुई बिन्दु "छ" पर मिलती है।

छ-ज रेखा नकटीया संरक्षित वन में, दोभन पठार आरक्षित वन से फिर समनवारा बर्रा आरक्षित वन से होकर गुजरती है और बिन्दु "ज" पर मिलती है।

ज-घ रेखा समनवारा बर्बा आरक्षित वन एवं दोभन पठार आरक्षित वन से होकर गुजरती है और आरंभिक बिन्दु "घ" पर मिलती है।

[फा. सं. 43015/23/2010-पीआरआईडब्ल्यू-I]
एस. सी. भाटिया, निदेशक

MINISTRY OF COAL

New Delhi, the 20th April, 2011

S. O. 1096.—Whereas, it appears to the Central Government that Coal is likely to be obtained from the lands in the locality described in the Schedule - A and Schedule - B annexed hereto;

And whereas, the plan bearing number C-1(E)III/HR/842 -1110, dated the 2nd November, 2010 containing details of the area of land described in the said Schedule may be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur - 440 001 (Maharashtra) or at the office of the Chief General Manager (Exploration Division), Central Mine Planning and Design Institute, Gondwana Palace, Kanke Road, Ranchi or at the office of the Coal Controller, I, Council House Street, Kolkata or at the office of the District Collector, Chhindwara (Madhya Pradesh) ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal described in the said Schedule;

Any person interested in the land described in the said Schedule may -

- (i) Object to the acquisition of the whole or any part of the land, or of any rights in or over such land, or
- (ii) claim an interest in compensation if the land or any rights in or over such land, or
- (iii) seek compensation for prospecting licences ceasing to have effect, rights under mining leases being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of section 13 of the said Act.

to the General Manager (Land & Revenue), Western Coalfields Limited, Revenue Department, Coal Estate, Civil Lines, Nagpur - 440001 (Maharashtra) or to the Chief General Manager, Western Coalfields Limited, Kanhan Area, Post Office Dungaria, Tahsil Junnardeo, District Chhindwara-480 553 (Madhya Pradesh) within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE - 'A'

MAORI UNDER GROUND MINE KANHAN AREA DISTRICT-CHHINDWARA(MADHYA PRADESH)

(Plan bearing number : C-1(E)III/HR/842 -1110, dated the 2nd November, 2010)

S.I. No.	Name of Village	Patwari Circle Number	Tahsil	District	Area (In hectares)	Remarks
1	MAORI	50/6	Parasia	Chhindwara	14.128	Part
2	GHOGRI RAYTWARI	50/7	Parasia	Chhindwara	24.246	Part
3	GHOGRI RAYTWARI	50/7	Parasia	Chhindwara	47.334	Part
Total area : or					85.708 hectares (approximately) 211.784 acres (approximately)	

SCHEDULE - 'B'

**MAORI UNDERGROUND MINE
KANHAN AREA
DISTRICT-CHHINDWARA(MADHYA PRADESH)**

(Plan bearing number: C-1(E)III/HR/842 - 1110, dated the 2nd November, 2010)

Sl. No.	Name of Village	Name of Forest	Patwari Circle Number	Old Compart- ment Number	New Compart- ment Number	Tahsil	District	Area (In hectares)	Remarks
1	NAKATIA	—	XXXII	P - 15B	472B	Junnardeo	Chhind- wara	55.957	Protected Forest (Part)
2	—	Dhobhan Pathar	XLIII & XLVIII	15	472	Junnardeo	Chhind- wara		
3	—	Saman- wara Barra	XXX & XXXIX	16-A	473	Junnar- deo	Chhind- wara	117.734	Reserve Forest (Part)
4	—	Block No. 10.	—	—	—	Parasia	Chhind- wara	49.065	Govt. Forest (Part)
5	AMBARA	Block No. 10	—	—	—	Parasia	Chhind- wara	27.608	Govt. Forest (Part)
6	MAORI	—	50/6	—	—	Parasia	Chhind- wara	22.987	Revenue Forest (Part)
7	GHOGRI RAYTWARI	—	50/6	—	—	Parasia	Chhind- wara	0.035	Revenue Forest (Part)

Total area : 273.386 hectares (approximately)
or 675.537 acres (approximately)

SCHEDULE - 'A'	+	SCHEDULE - 'B'	=	TOTAL AREA
85.708	+	273.386	=	359.094 hectares (approximately)
211.784	+	675.537	=	887.321 acres (approximately)

Boundary description:

"SCHEDULE - A"

A - B-C : Line starts from Point 'A' in village Ambara and passes nearby Point 'B' and 'C' and meets at starting Point 'A'

"SCHEDULE - B"

D-E : Line starts from Point 'D' from Dhobhan Pathar Reserve Forest, then passes through Ambara Government Forest and Ghogri Raytwari Revenue Forest and meets at Point 'E'.

E-F-G : Line passes through village Ghogri Raytwari and village Maori then passes nearby Point 'F' and meets at Point 'G'.

G-H : Line passes through Nakatia Protected Forest then Dobhan Pathar Reserve Forest then Samanwara Barra Reserve Forest and meets at Point 'H'.

H-D : Line passes through Samanwara Barra Reserve Forest, then Dobhan Pathar Reserve Forest and meets at starting Point 'D'.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1097.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीचे दी गई अधिसूची में यथा उल्लिखित तारीखों की संख्या का.आ. द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था।

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमियों में, सभी विलंगमों से मुक्त उपयोग का अधिकार भारत ओमान रिफाईनरीज लिमिटेड में निहित किया था।

और जबकि सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि कच्चे पेट्रोलियम तेल के परिवहन के लिए भारत ओमान रिफाईनरीज लिमिटेड के गुजरात राज्य स्थित वाडीनार संस्थापन से मध्य प्रदेश राज्य स्थित बोना संस्थापन तक उपर्युक्त भूमियों में पाईपलाइन बिछाई जा चुकी है। चूंकि गुजरात राज्य के जिला वडोदरा में पाईपलाइन बिछाई जा चुकी है, अतः ऐसी भूमि के बारे में जिसका विवरण इस अधिसूचना से संलग्न अनुसूची से विनिर्दिष्ट है, प्रचालन समाप्त किया जाए;

अतः अब केन्द्रीय सरकार ने पेट्रोलियम पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अंधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 7 में उल्लिखित तारीखों को जिला वडोदरा, गुजरात राज्य में प्रचालन की समाप्ति की तारीख के रूप में घोषित करती है।

अनुसूची

क्र. सं.	का. आ. नं.	गांव का नाम व तारीख	तहसील	जिला	राज्य	प्रचालन समाप्ति की तारीख
1	2	3	4	5	6	7
1.	2090 दिनांक 6-8-1997	वरसडा जाम्बुगोरल तुलसीगाम वच्छेसर	सावली सावली सावली सावली	वडोदरा वडोदरा वडोदरा वडोदरा	गुजरात गुजरात गुजरात गुजरात	11-10-2010 24-09-2010 12-9-2010 14-9-2010
2.	3039 दिनांक 26-11-1997	वरसडा जाम्बुगोरल	सावली सावली	वडोदरा वडोदरा	गुजरात गुजरात	11-10-2010 24-9-2010
3.	1316 दिनांक 25-6-1998	वरसडा जाम्बुगोरल	सावली सावली	वडोदरा वडोदरा	गुजरात गुजरात	11-10-2010 24-09-2010
4.	1798 दिनांक 7-9-1998	जाम्बुगोरल वच्छेसर	सावली सावली	वडोदरा वडोदरा	गुजरात गुजरात	24-09-2010 14-9-2010
5.	1819 दिनांक 14-7-2010	वरसडा जाम्बुगोरल	सावली सावली	वडोदरा वडोदरा	गुजरात गुजरात	11-10-2010 24-09-2010

[फा. सं. आर-31015/13/10-ओ.आर-II]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 19th April, 2011

S.O. 1097.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas, S.O. Nos. and dates as mentioned in the Schedule below issued under Sub-Section (i) of Section (6), Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government acquired the Right of User in the said lands specified in the schedule appended to those notification.

And whereas, in exercise of powers conferred by Sub-Section (4) of Section 6 of the said Act, the Central Government vested the right of user in the lands free from all encumbrances in the Bharat Oman Refineries Limited.

And whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of crude oil from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh has been laid in the said lands and hence the operation may be terminated in District Vadodara in the State of Gujarat in respect of the said lands which in brief are specified in the schedule annexed to this notification.

Now, therefore, as required under explanation 1 of Rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules 1963, the Central Government hereby declares the dates mentioned in Column 7 of the said schedule as the dates of termination in District Vadodara in the State of Gujarat.

SCHEDULE

Sr. No.	S.O. No. & Date	Name of Village	Taluka	District	State	Date of Termination of operation
1	2	3	4	5	6	7
1.	2090 Date 06-08-1997	Varsada Jambugoral Tulsigam Wacchesar	Savli Savli Savli Savli	Vadodara Vadodara Vadodara Vadodara	Gujarat Gujarat Gujarat Gujarat	11-10-2010 24-09-2010 12-09-2010 14-09-2010
2.	3039 Date 26-11-1997	Varsada Jambugoral	Savli Savli	Vadodara Vadodara	Gujarat Gujarat	11-10-2010 24-09-2010
3.	1316 Date 25-06-1998	Varsada Jambugoral	Savli Savli	Vadodara Vadodara	Gujarat Gujarat	11-10-2010 24-09-2010
4	1798 Date 07-09-1998	Jambugoral Wacchesar	Savli Savli	Vadodara Vadodara	Gujarat Gujarat	24-09-2010 14-09-2010
5	1819 Date 14-07-2010	Varsada Jambugoral	Savli Savli	Vadodara Vadodara	Gujarat Gujarat	11-10-2010 24-09-2010

[F. No. R-31015/13/10-OR-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1098.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीचे दी गई अधिसूची में यथा उल्लिखित तारीखों की संख्या का.आ. द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था ।

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमियों में, सभी विलंगमों से मुक्त उपयोग का अधिकार भारत ओमान रिफाईनरीज लिमिटेड में निहित किया था ।

और जबकि सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि कच्चे पेट्रोलियम तेल के परिवहन के लिए भारत ओमान रिफाईनरीज लिमिटेड के गुजरात राज्य स्थित वाडीनार संस्थापन से मध्य प्रदेश राज्य स्थित बीना संस्थापन तक उपर्युक्त भूमियों में पाइपलाइन बिछाई जा चुकी है । चूंकि गुजरात राज्य के जिला पंचमहाल में पाइपलाइन बिछाई जा चुकी है, अतः ऐसी भूमि के बारे में जिसका विवरण इस अधिसूचना से संलग्न अनुसूची से विनिर्दिष्ट है, प्रचालन समाप्त किया जाए ।

अतः अब केन्द्रीय सरकार ने पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 7 में उल्लिखित तारीखों को जिला पंचमहाल, गुजरात राज्य में प्रचालन की समाप्ति की तारीख के रूप में घोषित करती है ।

अनुसूची

क्र.सं.	का. आ. नं.	गांव का नाम	तहसील	जिला	राज्य	प्रचालन समाप्ति की तारीख
1	2	3	4	5	6	7
1.	2165 दिनांक 29-8-1997	गोठडा	गोधरा	पंचमहाल	गुजरात	28-9-2010
		गुसर	गोधरा	पंचमहाल	गुजरात	28-9-2010
		गोली	गोधरा	पंचमहाल	गुजरात	27-9-2010
		भीमा	गोधरा	पंचमहाल	गुजरात	24-9-2010
		गवाची	गोधरा	पंचमहाल	गुजरात	2-10-2010
		वेगनपुर	गोधरा	पंचमहाल	गुजरात	2-10-2010
		हरकुंडी	गोधरा	पंचमहाल	गुजरात	4-10-2010
		मेहलोल	गोधरा	पंचमहाल	गुजरात	8-10-2010
		अंबाली	गोधरा	पंचमहाल	गुजरात	17-10-2010
		भामैया	गोधरा	पंचमहाल	गुजरात	23-9-2010
		गोधरा	गोधरा	पंचमहाल	गुजरात	27-9-2010
		गोविंदी	गोधरा	पंचमहाल	गुजरात	4-10-2010
		कंकुथामला	गोधरा	पंचमहाल	गुजरात	4-10-2010
		जाफराबाद	गोधरा	पंचमहाल	गुजरात	6-10-2010
		कोटडा	गोधरा	पंचमहाल	गुजरात	10-10-2010
		चंचोपा	गोधरा	पंचमहाल	गुजरात	10-10-2010
		चुंदी	गोधरा	पंचमहाल	गुजरात	12-10-2010
		एरंडी	गोधरा	पंचमहाल	गुजरात	14-10-2010
		गढ़	गोधरा	पंचमहाल	गुजरात	14-10-2010
		लाडपुर	गोधरा	पंचमहाल	गुजरात	16-10-2010
		चंचेलाव	गोधरा	पंचमहाल	गुजरात	18-9-2010
		केवडीया	गोधरा	पंचमहाल	गुजरात	22-9-2010
2.	1907 दिनांक 14-9-1998	ओरवाडा	गोधरा	पंचमहाल	गुजरात	28-10-2010
		सालीया	गोधरा	पंचमहाल	गुजरात	4-10-2010
		खाबडा	गोधरा	पंचमहाल	गुजरात	4-10-2010
		भामैया	गोधरा	पंचमहाल	गुजरात	23-9-2010
3.	1816 दिनांक 12-7-2010	भीमा	गोधरा	पंचमहाल	गुजरात	24-9-2010
		गवाची	गोधरा	पंचमहाल	गुजरात	2-10-2010
		अंबाली	गोधरा	पंचमहाल	गुजरात	17-10-2010
		भामैया	गोधरा	पंचमहाल	गुजरात	23-9-2010
		गोधरा	गोधरा	पंचमहाल	गुजरात	27-9-2010
		गोविंदी	गोधरा	पंचमहाल	गुजरात	4-10-2010
		जाफराबाद	गोधरा	पंचमहाल	गुजरात	6-10-2010
		गढ़	गोधरा	पंचमहाल	गुजरात	14-10-2010
		केवडीया	गोधरा	पंचमहाल	गुजरात	22-9-2010
		ओरवाडा	गोधरा	पंचमहाल	गुजरात	28-9-2010
		सालीया	गोधरा	पंचमहाल	गुजरात	4-10-2010

फा. सं. आर-31015/13/10-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1098.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas, S.O. Nos. and dates as mentioned in the Schedule below issued under Sub-Section (i) of Section (6), Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government acquired the Right of User in the said lands specified in the schedule appended to those notification.

And whereas, in exercise of powers conferred by Sub-Section (4) of Section 6 of the said Act, the Central Government vested the right of user in the lands free from all encumbrances in the Bharat Oman Refineries Limited.

And whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of crude oil from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh has been laid in the said lands and hence the operation may be terminated in District Panchmahal in the State of Gujarat in respect of the said lands which in brief are specified in the schedule annexed to this notification.

Now, therefore, as required under explanation 1 of Rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules 1963, the Central Government hereby declares the dates mentioned in Column 7 of the said schedule as the dates of termination in District Panchmahal in the State of Gujarat.

SCHEDULE

Sr. No.	S.O. No. & Date	Name of Village	Taluka	District	State	Date of Termination of operation
1	2	3	4	5	6	7
1. 2165 Date 29-08-1997	Gothada	Godhra	Panchmahal	Gujarat	28-9-2010	
	Gusar	Godhra	Panchmahal	Gujarat	27-9-2010	
	Goli	Godhra	Panchmahal	Gujarat	27-9-2010	
	Bhima	Godhra	Panchmahal	Gujarat	24-9-2010	
	Gavachi	Godhra	Panchmahal	Gujarat	2-10-2010	
	Veganpur	Godhra	Panchmahal	Gujarat	2-10-2010	
	Harkundi	Godhra	Panchmahal	Gujarat	4-10-2010	
	Mehelol	Godhra	Panchmahal	Gujarat	8-10-2010	
	Ambali	Godhra	Panchmahal	Gujarat	17-10-2010	
	Bhamaiya	Godhra	Panchmahal	Gujarat	23-09-2010	
	Godhra	Godhra	Panchmahal	Gujarat	27-9-2010	
	Govindi	Godhra	Panchmahal	Gujarat	4-10-2010	
	Kankuthamla	Godhra	Panchmahal	Gujarat	4-10-2010	
	Jafrabad	Godhra	Panchmahal	Gujarat	6-10-2010	
	Kotada	Godhra	Panchmahal	Gujarat	10-10-2010	
	Chanchopa	Godhra	Panchmahal	Gujarat	10-10-2010	
	Chundadi	Godhra	Panchmahal	Gujarat	12-10-2010	
	Airandi	Godhra	Panchmahal	Gujarat	14-10-2010	
	Ghad	Godhra	Panchmahal	Gujarat	14-10-2010	
	Ladpur	Godhra	Panchmahal	Gujarat	16-10-2010	
	Chanelav	Godhra	Panchmahal	Gujarat	18-9-2010	
	Kevdiya	Godhra	Panchmahal	Gujarat	22-9-2010	
	Orvada	Godhra	Panchmahal	Gujarat	28-9-2010	
	Saliya	Godhra	Panchmahal	Gujarat	4-10-2010	
	Khabada	Godhra	Panchmahal	Gujarat	4-10-2010	
	Bhamaiya	Godhra	Panchmahal	Gujarat	23-9-2010	
2. 1907 Date 14-9-1998						

1	2	3	4	5	6	7
3.	1816 Date 12-7-2010	Bhima Gavachi Ambali Bhamiya Godhra Govindi Jafrabad Gadh Kevadiya Orvada Saliya	Godhra Godhra Godhra Godhra Godhra Godhra Godhra Godhra Godhra Godhra Godhra	Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal Panchmahal	Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat	24-9-2010 2-10-2010 17-10-2010 23-9-2010 27-9-2010 4-10-2010 6-10-2010 14-10-2010 22-9-2010 28-9-2010 4-10-2010

[F.No.R-31015/13/10-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1099.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीचे दी गई अधिसूची में यथा उल्लिखित तारीखों की संख्या का.आ. द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था।

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमियों में, सभी विल्लंगमों से सबूत उपयोग का अधिकार भारत ओमान रिफाईनरीज लिमिटेड में निहित किया था।

और जबकि सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि कच्चे पेट्रोलियम तेल के परिवहन के लिए भारत ओमान रिफाईनरीज लिमिटेड के गुजरात राज्य स्थित वाडीनार संस्थापन से मध्य प्रदेश राज्य स्थित बीना संस्थापन तक उपर्युक्त भूमियों में पाईपलाइन बिछाई जा चुकी है । चूंकि गुजरात के जिला अहमदाबाद में पाईपलाइन बिछाई जा चुकी है, अतः ऐसी भूमि के बारे में जिसका विवरण इस अधिसचना से संलग्न अनुसंधी से विनिर्दिष्ट है, प्रचलन समाप्त किया जाए;

अतः अब केन्द्रीय सरकार ने पेट्रोलियम पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 7 में उल्लिखित तारीखों को जिला अहमदाबाद, गुजरात राज्य में प्रचालन की समर्पित की तरीख के रूप में घोषित करती है।

अनसदी

1	2	3	4	5	6	7
		पालडी	धोलका	अहमदाबाद	गुजरात	25-11-2010
		पीसावाडा	धोलका	अहमदाबाद	गुजरात	25-11-2010
		वीरपुर	धोलका	अहमदाबाद	गुजरात	25-11-2010
		वीरडी	धोलका	अहमदाबाद	गुजरात	25-11-2010
		गीरंद	धोलका	अहमदाबाद	गुजरात	25-11-2010
2.	901 दिनांक 17-3-1997	बगोदरा मीठापुर	धोलका	अहमदाबाद	गुजरात	8-9-2010
3.	1951 दिनांक 30-9-1998	बगोदरा कोठ	बावला	अहमदाबाद	गुजरात	8-9-2010
		सीमेंज	धोलका	अहमदाबाद	गुजरात	25-11-2010
4.	1318 दिनांक 25-6-1998	मेमर	धोलका	अहमदाबाद	गुजरात	11-9-2010
5.	1592 दिनांक 25-6-2010	बगोदरा मीठापुर मेमर	बावला	अहमदाबाद	गुजरात	8-9-2010
			बावला	अहमदाबाद	गुजरात	8-9-2010
			बावला	अहमदाबाद	गुजरात	11-9-2010
6.	1318 दिनांक 25-6-1998	कोठ रूपगढ़	धोलका	अहमदाबाद	गुजरात	25-11-2010
		कौका	धोलका	अहमदाबाद	गुजरात	25-11-2010
		पीसावाडा	धोलका	अहमदाबाद	गुजरात	25-11-2010
7.	1940 दिनांक 2-8-2010	कोठ रूपगढ़ खरांटी	धोलका	अहमदाबाद	गुजरात	25-11-2010
		सीमेंज	धोलका	अहमदाबाद	गुजरात	25-11-2010
		पीसावाडा	धोलका	अहमदाबाद	गुजरात	25-11-2010
		वीरपुर	धोलका	अहमदाबाद	गुजरात	25-11-2010
		गीरंद	धोलका	अहमदाबाद	गुजरात	25-11-2010

[फा. सं. आर-31015/13/10-ओ.आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1099.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas, S.O. Nos. and dates as mentioned in the Schedule below issued under Sub-section (i) of Section (6), Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government acquired the Right of User in the said lands specified in the schedule appended to those notification.

And whereas, in exercise of powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government vested the right of user in the lands free from all encumbrances in the Bharat Oman Refineries Limited.

And whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of crude oil from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh has been laid in the said lands and hence the operation may be terminated in District Ahmedabad in the State of Gujarat in respect of the said lands which in brief are specified in the schedule annexed to this notification.

Now, therefore, as required under explanation 1 of Rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963, the Central Government hereby declares the dates mentioned in Column 7 of the said schedule as the dates of termination in District Ahmedabad in the State of Gujarat.

SCHEDULE

Sr. No.	S.O. No. & Date	Name of Village	Taluka	District	State	Date of Termination of Operation
1	2	3	4	5	6	7
1.	2163 Date 18-8-1997	Bagodara Mithapur Memar Koth Rupagarh Kharanti Kaliyapura Simej Kauka Paldi Pisawada Virpur Virdi Girand	Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka Dholka	Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad	Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat	8-9-2010 8-9-2010 11-9-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010
2.	901 Date 17-3-1997	Bagodara Mithapur	Dholka Dholka	Ahmedabad Ahmedabad	Gujarat *Gujarat	8-9-2010 8-9-2010
3.	1951 Date 30-9-1998	Bagodara Koth Simej	Dholka Dholka Dholka	Ahmedabad Ahmedabad Ahmedabad	Gujarat Gujarat Gujarat	8-9-2010 25-11-2010 25-11-2010
4.	1318 Date 25-6-1998	Memar	Dholka	Ahmedabad	Gujarat	11-9-2010
5.	1592 Date 25-6-2010	Bagodara Mithapur Memar	Bavla Bavla Bavla	Ahmedabad Ahmedabad Ahmedabad	Gujarat Gujarat Gujarat	8-9-2010 8-9-2010 11-9-2010
6.	1318 Date 25-6-1998	Koth Rupgadh Kauka Pisawada	Dholka Dholka Dholka Dholka	Ahmedabad Ahmedabad Ahmedabad Ahmedabad	Gujarat Gujarat Gujarat Gujarat	25-11-2010 25-11-2010 25-11-2010 25-11-2010
7.	1940 Date 2-8-2010	Koth Rupgadh Kharenti Simej Piswada Virpur Girand	Dholka Dholka Dholka Dholka Dholka Dholka Dholka	Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad Ahmedabad	Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat Gujarat	25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010 25-11-2010

[F. No. R-31015/13/10-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 19 अप्रैल, 2011

का.आ. 1100.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीचे दी गई अधिसूची में यथा उल्लिखित तारीखों की संख्या का.आ. द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था ।

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमियों में, सभी विल्लंगमों से मुक्त उपयोग का अधिकार भारत ओमान रिफाइनरीज लिमिटेड में निहित किया था ।

और जबकि सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि कच्चे पेट्रोलियम तेल के परिवहन के लिए भारत ओमान रिफाइनरीज लिमिटेड के गुजरात राज्य स्थित वाडीनार संस्थापन से मध्य प्रदेश राज्य स्थित बीना संस्थापन तक उपर्युक्त भूमियों में पाइपलाइन

बिछाई जा चुकी है। चूंकि गुजरात राज्य के जिला खेडा में पाईपलाइन बिछाई जा चुकी है, अतः ऐसी भूमि के बारे में जिसका विवरण इस अधिसूचना से संलग्न अनुसूची से विनिर्दिष्ट है, प्रचालन समाप्त किया जाए;

अतः, अब, केन्द्रीय सरकार पेट्रोलियम पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 7 में उल्लिखित तारीखों को जिला खेडा, गुजरात राज्य में प्रचालन की समाप्ति की तारीख के रूप में घोषित करती है।

अनुसूची

क्र. सं.	का. आ. नं.	गांव का नाम	तहसील	जिला	राज्य	प्रचालन समाप्ति की तारीख
1	2	3	4	5	6	7
1.	2839 दिनांक 28-10-1997	असामली नधानपुर	मातर मातर	खेडा खेडा	गुजरात गुजरात	15-9-2010 16-9-2010
		बरोडा खरेंटी	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		पुनाज असलाली	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		त्रांजा मछीयेल	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		हेरन्ज खांधली	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		मलियातज लावल	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 17-9-2010
		सीहोलडी नधानपुर	मातर मातर	खेडा खेडा	गुजरात गुजरात	17-9-2010 17-9-2010
2.	1951 दिनांक 30-9-1998	खरेंटी त्रांजा	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		कथोडा हेरन्ज	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		खांधली मलियातज	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		लावल पाल्ला	मातर मातर	खेडा खेडा	गुजरात गुजरात	17-9-2010 17-9-2010
3.	1457 दिनांक 14-7-1998	लावल	मातर	खेडा	गुजरात	16-9-2010
4.	1444 दिनांक 21-5-2010	असामली असलाली	मातर मातर	खेडा खेडा	गुजरात गुजरात	17-9-2010 16-9-2010
		त्रांजा हेरन्ज	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
		खांधली मलियातज	मातर मातर	खेडा खेडा	गुजरात गुजरात	16-9-2010 16-9-2010
5.	2127 दिनांक 22-10-1998	वसो गंगापुर	नडीयाद नडीयाद	खेडा खेडा	गुजरात गुजरात	17-9-2010 17-11-2010
		रामपुर पीज	नडीयाद नडीयाद	खेडा खेडा	गुजरात गुजरात	17-11-2010 17-11-2010
		पीपलाता पिपलग	नडीयाद नडीयाद	खेडा खेडा	गुजरात गुजरात	17-11-2010 17-11-2010
		नडीयाद उत्तरसंडा	नडीयाद नडीयाद	खेडा खेडा	गुजरात गुजरात	18-11-2010 18-11-2010
		सलुन वाटा फतपुर	नडीयाद नडीयाद	खेडा खेडा	गुजरात गुजरात	18-11-2010 18-11-2010
		सलुन तलपद	नडीयाद	खेडा	गुजरात	18-11-2010

1	2	3	4	5	6	7
6. 1941 दिनांक 2-8-2010	कन्जोडा	नडीयाद	खेडा	गुजरात	18-11-2010	
	सुरासामल	नडीयाद	खेडा	गुजरात	19-11-2010	
	चलाली	नडीयाद	खेडा	गुजरात	19-11-2010	
	पीज	नडीयाद	खेडा	गुजरात	17-11-2010	
	पीपलाता	नडीयाद	खेडा	गुजरात	17-11-2010	
	पीपलग	नडीयाद	खेडा	गुजरात	18-11-2010	
	नडीयाद	नडीयाद	खेडा	गुजरात	18-11-2010	
7. 2126 दिनांक 22-10-1998	सलुनतलपद	नडीयाद	खेडा	गुजरात	18-11-2010	
	कन्जोडा	नडीयाद	खेडा	गुजरात	18-11-2010	
	चलाली	नडीयाद	खेडा	गुजरात	19-11-2010	
	सीमलज	ठासरा	खेडा	गुजरात	20-11-2010	
	जाखेड	ठासरा	खेडा	गुजरात	20-11-2010	
	काल्जसर	ठासरा	खेडा	गुजरात	20-11-2010	
	आगरवा	ठासरा	खेडा	गुजरात	21-11-2010	
8. 1445 दिनांक 21-5-2010	सांडेलीया	ठासरा	खेडा	गुजरात	21-11-2010	
	कोतरीया	ठासरा	खेडा	गुजरात	21-11-2010	
	उपलेट	ठासरा	खेडा	गुजरात	21-11-2010	
	सीमलज	ठासरा	खेडा	गुजरात	20-11-2010	
	आगरवा	ठासरा	खेडा	गुजरात	21-11-2010	
	उपलेट	ठासरा	खेडा	गुजरात	21-11-2010	

[फा. सं. आर-31015/13/10-ओ.आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 19th April, 2011

S.O. 1100.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas, S.O. Nos. and dates as mentioned in the Schedule below issued under Sub-section (i) of Section (6), Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government acquired the Right of User in the said lands specified in the schedule appended to those notification.

And whereas, in exercise of powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government vested the right of user in the lands free from all encumbrances in the Bharat Oman Refineries Limited.

And whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of crude oil from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh has been laid in the said lands and hence the operation may be terminated in District Kheda in the State of Gujarat in respect of the said lands which in brief are specified in the schedule annexed to this notification.

Now, therefore, as required under explanation 1 of Rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963, the Central Government hereby declares the dates mentioned in Column 7 of the said schedule as the dates of termination in District Kheda in the State of Gujarat.

SCHEDULE

Sr. No.	S.O. No. & Date	Name of Village	Taluka	District	State	Date of Termination of Operation
1	2	3	4	5	6	7
I. 2839 Date 28-10-1997	Asamali	Matar	Kheda	Gujarat	15-9-2010	
	Nadhanpur	Matar	Kheda	Gujarat	16-9-2010	
	Asalali	Matar	Kheda	Gujarat	16-9-2010	
	Tranja	Matar	Kheda	Gujarat	16-9-2010	
	Machhiyel	Matar	Kheda	Gujarat	16-9-2010	
	Baroda	Matar	Kheda	Gujarat	16-9-2010	

1	2	3	4	5	6	7
		Kharenti	Matar	Kheda	Gujarat	16-9-2010
		Punaj	Matar	Kheda	Gujarat	16-9-2010
		Heranj	Matar	Kheda	Gujarat	16-9-2010
		Khandhali	Matar	Kheda	Gujarat	16-9-2010
		Maliyataj	Matar	Kheda	Gujarat	16-9-2010
		Lawal	Matar	Kheda	Gujarat	17-9-2010
		Siholadi	Matar	Kheda	Gujarat	17-9-2010
2.	1951 Date 30-9-1998	Nadhanpur	Matar	Kheda	Gujarat	16-9-2010
		Kharenti	Matar	Kheda	Gujarat	16-9-2010
		Tranja	Matar	Kheda	Gujarat	16-9-2010
		Kathoda	Matar	Kheda	Gujarat	16-9-2010
		Heranj	Matar	Kheda	Gujarat	16-9-2010
		Khandhali	Matar	Kheda	Gujarat	16-9-2010
		Lawal	Matar	Kheda	Gujarat	16-9-2010
		Maliyataj	Matar	Kheda	Gujarat	17-9-2010
3.	1457 Date 14-7-1998	Palla	Matar	Kheda	Gujarat	17-9-2010
4.	1444 Date 21-5-2010	Lawal	Matar	Kheda	Gujarat	17-9-2010
		Asamali	Matar	Kheda	Gujarat	16-9-2010
		Aslali	Matar	Kheda	Gujarat	16-9-2010
		Tranja	Matar	Kheda	Gujarat	16-9-2010
		Heranj	Matar	Kheda	Gujarat	16-9-2010
		Khandhli	Matar	Kheda	Gujarat	16-9-2010
		Maliyataj	Matar	Kheda	Gujarat	16-9-2010
5.	2127 Date 22-10-1998	Vaso	Nadiad	Kheda	Gujarat	17-9-2010
		Gangapur	Nadiad	Kheda	Gujarat	17-11-2010
		Rampur	Nadiad	Kheda	Gujarat	17-11-2010
		Pij	Nadiad	Kheda	Gujarat	17-11-2010
		Pipalta	Nadiad	Kheda	Gujarat	17-11-2010
		Piplag	Nadiad	Kheda	Gujarat	17-11-2010
		Nadiad	Nadiad	Kheda	Gujarat	18-11-2010
		Uttarsanda	Nadiad	Kheda	Gujarat	18-11-2010
		Fatepur	Nadiad	Kheda	Gujarat	18-11-2010
		Salun Vata	Nadiad	Kheda	Gujarat	18-11-2010
		Salun Talpad	Nadiad	Kheda	Gujarat	18-11-2010
		Kanjoda	Nadiad	Kheda	Gujarat	18-11-2010
		Surasamal	Nadiad	Kheda	Gujarat	18-11-2010
		Chalali	Nadiad	Kheda	Gujarat	19-11-2010
6.	1941 Date 2-8-2010	Pij	Nadiad	Kheda	Gujarat	19-11-2010
		Piplata	Nadiad	Kheda	Gujarat	17-11-2010
		Piplag	Nadiad	Kheda	Gujarat	17-11-2010
		Nadiad	Nadiad	Kheda	Gujarat	18-11-2010
		Saluntalpad	Nadiad	Kheda	Gujarat	18-11-2010
		Kanjoda	Nadiad	Kheda	Gujarat	18-11-2010
		Chalali	Nadiad	Kheda	Gujarat	18-11-2010
7.	2126 Date 22-10-1998	Simalaj	Thasara	Kheda	Gujarat	19-11-2010
		Jakhed	Thasara	Kheda	Gujarat	20-11-2010
		Kalsar	Thasara	Kheda	Gujarat	20-11-2010
		Agarwa	Thasara	Kheda	Gujarat	21-11-2010
		Kotariya	Thasara	Kheda	Gujarat	21-11-2010
		Sandheliya	Thasara	Kheda	Gujarat	21-11-2010
		Uplet	Thasara	Kheda	Gujarat	21-11-2010
8.	1445 Date 21-5-2010	Simlaj	Thasara	Kheda	Gujarat	21-11-2010
		Agarwa	Thasara	Kheda	Gujarat	21-11-2010
		Uplet	Thasara	Kheda	Gujarat	21-11-2010

[F. No. R-31015/13/10-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 19 अप्रैल, 2011

का. आ. 1101.—भारत सरकार ने, पेट्रोलियम और ग्यनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना मंख्या का.आ. 2118 तारीख 18 अगस्त, 2010 द्वारा, उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैग्नर्स रिलाइंस इन्डस्ट्रीज लिमिटेड के आन्ध्र प्रदेश में पूर्वी तट पर काकीनाडा स्थित अपतटीय गैस पर्यावरण टर्मिनल में देश के विभिन्न हिस्सों में उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए, मैग्नर्स रिलोजिस्टिक्स इन्फ्रास्ट्रक्चर लिमिटेड द्वारा विजयवाडा-नेल्लोर-चेन्नई गैस पाइपलाइन विभाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और, उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 22 दिसंबर, 2010 को अथवा उसमें पूर्व उपलब्ध करा दी गई थीं;

और, पाइपलाइन विभाने के सम्बन्ध में, जनता की ओर से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और अनुमति कर दिया गया;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और, भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइन विभाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह देती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन विभाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से भारत सरकार में निहित होने के बजाए, सभी विलंगमों से मुक्त, मैग्नर्स रिलोजिस्टिक्स इन्फ्रास्ट्रक्चर लिमिटेड में निहित होगा।

अनुसूची

मंडल/ तेहमिल/ तालुक : कोडावलूर	जिला : श्री पोड्डि श्रीगम्भु नेल्लूर	गज्य : आन्ध्र प्रदेश		
गाँव का नाम	सर्वे सं/सब डिविजन सं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल		
		हेक्टेयर	एयर	सि एयर
1	2	3	4	5
1) कोलवंगल्लु	1399	01	31	11
मंडल/ तेहमिल/ तालुक : वुच्चिरेडिपालेम	जिला : श्री पोड्डि श्रीगम्भु नेल्लूर	गज्य : आन्ध्र प्रदेश		
1) इम्कापालेम	522	00	69	84
	538	00	06	36
	539	00	82	56
	540	00	33	89
2) वव्वेरु	518 गट नंवर 518 में तलाव 536/1 577 582 584 585	00 00 00 00 00 00	15 02 08 06 16 21 08	49 22 53 95 20 02 61

1	2	3	4	5
2) वव्यंग (नियंत्र)	590	00	00	10
	597	00	44	59
	600	00	14	09
	601	00	04	86
	602	00	15	96
	605	00	11	04
	606	00	37	58
	608	00	03	38
	610	00	03	31
	611	00	04	66
	616	00	02	28
	617	00	01	24
	618	00	02	24
	620	00	01	62
	647/डी	00	00	46
	648/ए	00	01	39
	648/वी	00	01	94
	650	00	05	19
	651	00	00	10
	652	00	28	43
	693	00	00	72
	694	00	08	00
	695	00	11	41
	697	00	01	27
	702	00	40	40
	703	00	36	08
	706	00	26	38
	717	00	30	88
	734/ए	00	03	55
	797	00	01	31
	798	00	36	32
	803/2	00	05	01
	811/2	00	05	03
	812	00	34	78
	814	00	27	55
	817	00	02	47
	821/1	00	12	03
	822	00	24	08
	823	00	01	85
	824/2	00	04	71
	924	00	00	87
	925	00	40	53
	926	00	03	72
	929/1	00	08	02
	936/1	00	13	52
	939	00	01	99
	952	00	07	09
	953	00	17	81
	954/2	00	05	82
	954/3	00	28	85
	955	00	00	31
	958/2	00	03	94

1	2	3	4	5
2) वज्रेन (निरंतर)	963/2	00	09	87
	968	00	07	92
	गट नंवर 963/2 और 969 के बीच में	00	05	18
	1046	00	06	28
	1047	00	22	61
	1048	00	28	71
	1049	00	14	80
	1068	00	51	13
	1069	00	03	94
	1082	00	52	34
	1110	00	16	18
	1115	00	14	78
	1142	00	20	55
	1219	00	04	90
	1222	00	61	02
	1224	00	02	61
	1226	00	18	65
	1230	00	49	12
	1247	00	01	57
	1256	00	00	10
	1257	00	10	15
	583/1	00	09	69
	583/2	00	24	09
	598/ए	00	06	22
	607/1	00	19	71
	615/ए	00	05	78
	615/वी	00	17	69
	619/ए	00	04	36
	619/वी	00	03	09
	621/ए	00	01	26
	621/वी	00	12	63
	649/ए	00	23	97
	696/ए	00	00	12
	696/वी	00	17	11
	704/ए	00	01	28
	704/वी	00	12	06
	704/गी	00	04	80
	707/वी	00	19	50
	708/सी	00	01	03
	718/ए	00	32	47
	811/1ए	00	28	89
	811/1वी1	00	10	56
	818/ए	00	05	28
	818/वी	00	10	15
	938/ए	00	00	12
	938/वी	00	36	82
	969/1	00	36	94
	1022/ए	00	11	58
	1022/वी	00	16	80
	1023/ए	00	09	38
	1037/सी	00	02	73
	1080/1			

1	2	3	4	5
2) वव्यस (निर्गता)	1080/2	00	01	74
	1080/4	00	00	32
	1080/5	00	06	77
	1080/6	00	10	21
	1080/7	00	08	09
	1081/9	00	04	29
	1081/10	00	02	73
	1081/11	00	01	12
	1083/9	00	00	23
	1083/10	00	00	95
	1086/8	00	03	28
	1087/1	00	14	36
	1087/2	00	08	10
	1092/1	00	03	17
	1096/1	00	20	42
	1096/2	00	13	52
	1096/3	00	00	11
	1097/2	00	00	12
	1097/3	00	09	19
	1097/4	00	03	17
	1102/2	00	02	87
	1102/3	00	05	97
	1102/4	00	21	36
	1103/1	00	33	09
	1103/3	00	01	01
	1108/1	00	06	59
	1109/2	00	02	45
	1109/4	00	07	60
	1109/5	00	09	31
	1109/6	00	08	29
	1109/8	00	14	08
	1111/1	00	08	79
	1114/1	00	03	59
	1114/2	00	05	66
	1114/3	00	01	38
	1114/4	00	08	13
	1114/5	00	02	53
	1243/2	00	07	74
	1243/3	00	11	16
	1243/4	00	06	59
	1243/5	00	01	26
	1244/2	00	02	69
	1244/3	00	07	04
	1244/4	00	04	73
	1244/5	00	02	40
	1244/6	00	00	10
	1245/3	00	01	12

1	2	3	4	5
2) वन्देम (नियंत्र)	1245/4 1245/5 1246/13 1250/1 1250/2 1251/8 1251/9 1251/10 1251/11 1252/7 1252/8 1252/9 1252/10	00 00 00 00 00 00 00 00 00 00 00 00 00	01 14 01 08 00 06 17 17 03 10 20 13 00	22 70 33 90 49 52 40 62 93 00 73 27 26
3) कावेटिपालेम	5 8 9 10 51 53 56 57 58 59 6/1 6/2	00 00 00 00 00 00 00 00 00 00 00 00	43 31 28 03 05 09 10 12 17 20 05	41 00 47 17 47 79 05 45 53 13 99
4) पंचेडु	1 5 6 11 180 190 191 192 199/2 201 203 213/1 214 249 251 252 253	00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00 00	02 12 32 00 17 09 12 02 13 12 31 04 03 04 00 33	45 93 18 10 16 21 89 49 56 69 09 32 48 96 67 13 38

1	2	3	4	5
4) ਪੰਚੜ੍ਹ (ਨਿੱਗੱਤ)	258	00	39	20
	259	00	04	74
	268	00	22	04
	347	00	00	10
	398	00	16	22
	399	00	00	10
	405	00	11	78
	406	00	03	71
	417	00	00	77
	419	00	15	21
	420	00	38	89
	421	00	05	30
	424	00	17	69
	425	00	36	55
	426	00	02	39
	532	00	02	46
	537	00	00	27
	538	00	51	94
	539	00	04	53
	540	00	37	27
	541	00	09	10
	542	00	06	51
	569	00	08	68
	4/ੳ	00	01	98
	7/1	00	11	61
	7/2	00	12	31
	8/ੳ	00	16	42
	8/ਵੀ	00	00	62
	9/ੳ	00	00	80
	9/ਵੀ	00	00	10
	181/ੳ	00	15	68
	199/1/1	00	14	61
	199/1/2	00	34	05
	202/ੳ	00	12	38
	204/ੳ	00	07	05
	204/ਵੀ	00	05	54
	204/ਸੀ	00	00	43
	205/1	00	19	45
	205/2	00	09	98
	206/1	00	01	56
	206/2	00	00	47
	212/ੳ	00	20	65

1	2	3	4	5
4) पंचड (नियंता)	213/2वी	00	02	77
	215/1ए1	00	26	87
	215/1ए2	00	03	12
	215/1वी	00	05	96
	215/2/1	00	22	07
	216/2	00	02	94
	250/1ए	00	31	50
	250/1वी	00	07	86
	250/1सी	00	10	63
	254/ए	00	05	87
	254/वी1	00	15	40
	254/सी	00	01	73
	257/1	00	19	01
	257/2	00	01	00
	260ए	00	02	92
	260/वी	00	08	46
	402/ए	00	10	11
	402/वी	00	01	53
	402/सी	00	15	03
	402/ई	00	02	00
	407/वी	00	00	10
	536/2	00	03	52
5) पेनुवल्ली	389	00	18	34
	394	00	05	56
	401/3	00	04	45
	405	00	49	50
	268/1	00	11	07
	268/2	00	00	50
	269/1ए4	00	06	41
	269/2	00	10	37
	391/1	00	00	80
	391/2	00	09	23
	391/3	00	06	10
	391/4	00	06	20
	391/5	00	04	95
	392/1	00	10	90
	392/2	00	10	96
	392/3	00	09	14
	393/1	00	11	82
	398/2	00	00	28
	398/3	00	02	63
	398/4	00	06	46

1	2	3	4	5
5) पेनुवल्ली (निरंतर)	398/5 399/1 401/2/1 401/2/2 402/1 402/2ए 402/2वी 404/1/ ए1 404/1 वी1 404/1/मी 404/2/1 404/2/2	00 00 00 00 00 00 00 00 00 00 00 00	20 36 11 02 01 07 35 17 18 19 03 02	26 06 35 54 56 35 22 65 05 72 62 07
6) मिनगल्लु	11/1 11/2 11/3 268 10/ए1 10/ए2	00 00 00 00 00 00	28 10 05 24 50 00	60 78 75 63 17 62
7) जोनवाडा	6 गट नंवर 6 में नाला 7 8 80 गट नंवर 81 में पेन्नेल नदी	00 00 00 00 00 01	00 00 22 62 96 38	98 44 98 69 96 45
मंडल/ तेहसिल/ तालुक : संगम	जिला : श्री पोहिं श्रीरामुलु नेल्लूरु		राज्य :आन्ध्र प्रदेश	
1) दुब्बुरु	21 76/1 77 91/3 95 875 876 879 887 22/1	01 00 00 00 00 00 00 00 00 00	33 27 72 06 33 28 08 30 06 04	75 84 61 25 39 24 71 07 03 07
मंडल/ तेहसिल/ तालुक : नेल्लूरु	जिला : श्री पोहिं श्रीरामुलु नेल्लूरु		राज्य :आन्ध्र प्रदेश	
1) मनवरगप्पाडु	68 70 71 62/3 66/2 67/1 67/2 67/3	00 00 02 00 00 00 00 00	26 19 57 35 09 18 07 23	76 21 10 92 13 10 55 17

1		2	3	4	5
1) मन्त्रयगण्डु (नियंत्र)	69/3		00	05	76
	69/4		00	04	40
	69/5		00	18	24
	69/6		00	19	87
	69/7		00	05	61
2) अमनचेला	156		00	00	34
	159		00	27	68
	160		00	37	92
	163		00	35	91
	164		00	57	63
	183		00	32	16
	186		00	18	91
	211		00	41	30
	212/2		00	18	20
	214		00	03	01
	215		00	15	36
	220		00	26	14
	221		00	29	63
	222		00	37	26
	229/2		00	34	67
	235		00	09	42
	301		00	75	78
	302		00	00	93
	303/1		02	13	05
	308		00	69	02
	345/4		00	85	12
	419		02	84	11
	420		00	62	79
	182/1		00	05	14
	182/2		00	16	50
	182/3		00	14	23
	182/4		00	07	89
	182/5		00	08	78
	182/6		00	13	80
	182/7		00	16	29
	182/8		00	08	27
	182/9		00	03	67
	182/10		00	00	19
	213/गी		00	04	30
	213/गी		00	25	95
	223/गी1		00	48	84
	304/1		00	53	73

1	2	3	4	5
मंडल/ नेहमिल/ नालुकः वैकटाचलम	जिला ३ श्री पोद्वि श्रीगम्भु नेल्लूर	गज्य ३आन्ध्र प्रदेश		
1) कुमुर	गाँव मीमा और 117 के बीच में	18	13	90
	117	01	08	92
	गट नंवर 117 में कमुमरु पेट चेस्ट्व	01	39	56
2) कुर्गिचलापाडु	1	05	05	05
	38/1	00	00	10
	39/1	00	00	43
	39/2ए	00	00	23
	39/2वा	00	00	75
	40	01	19	18
	41/1	00	30	36
	42/2	00	35	14
	42/3	00	21	37
	47	00	01	31
	48	00	05	88
	78	00	45	38
	79/5	00	04	94
	80/1	00	11	80
	80/2	00	00	50
	81/1	00	04	40
	81/4	00	13	24
	81/5	00	16	08
	81/6	00	03	88
	84/10	00	06	05
	84/4	00	22	91
	84/5	00	01	55
	84/7	00	00	25
	84/8	00	00	30
	84/9	00	10	72
	96/4	00	26	70
	96/6	00	19	05
	97/1	00	12	19
	97/4	00	14	27
	97/5	00	15	02
	98/1	00	01	73
	98/2	00	18	07
	98/3	00	29	11
	98/4	00	01	49
	103/1	00	00	42
	103/2	00	00	10
	103/3	00	03	23
	108	00	56	06
	109/2	00	00	84

1	2	3	4	5
१.) कुर्गीचल्लापाडु (निंगता)	109/3	00	08	76
	110/1	00	00	46
	110/2	00	30	50
	43/1	00	00	40
मंडल/ तेहसिल/ तालुक : मनुवोलु	जिला : श्री पोड्डि श्रीगम्मुलु नेल्लूरु	राज्य : आन्ध्र प्रदेश		
१.) बडलापुडी	13	00	04	95
	14	00	14	42
	19	00	47	23
	20	00	03	25
	31	00	19	38
	37	00	14	92
	81	00	27	89
	83	00	66	70
	84	00	03	24
	86/ए	00	10	03
	87/ए	00	00	37
	89	00	49	48
	90	00	43	31
	96/ए	00	42	59
	96/वी	00	07	05
	गट नंवर 96/वी में रोड	00	01	74
		00	09	98
	96/सी	00	01	75
	103/ए	00	04	66
	104	00	60	40
	105	00	29	76
	106	00	01	84
	108	00	36	16
	109/1	00	00	16
	109/2	00	15	89
	1133	00	19	38
	119	00	21	33
	158	00	33	12
	159	00	00	10
	161	00	64	47
	162	00	01	27
	15/1	00	06	69
	15/3ए	00	14	83
	15/3वी	00	09	65
	15/3सी	00	12	61
	15/4	00	13	07
	15/5	00	40	71
	38/1	00	00	78
	118/1	00	34	10
	118/2	00	40	20
	127/1	00	02	22
	127/2	00	69	01
	131/2	00	02	71
	143/2वी	00	00	68
	143/3सी	00	31	13
	143/3एफ	00	03	34
	143/3जी			

1	2	3	4	5
1) बडलापुडी (निंना)	145/2 156/1 156/2ए 156/2वी1 156/2सी 157/1वी 157/1सी 160/4 160/5	00 00 00 00 00 00 00 00 00	03 04 01 03 00 01 08 00 13	02 93 41 95 75 88 33 27 07
2) अक्कमपेटा	161 158/1 158/3 158/4 159/1 159/2 160/2	00 00 00 00 00 00 00	90 05 16 20 03 52 15	16 91 31 27 69 17 45
3) मडमनुरु	247 248	00 00	14 71	67 01

[फा सं. एल.-14014/56/2009-जी.पी.]
के. के. शर्मा, अवर सचिव

New Delhi, the 19th April, 2011

S. O. 1101.— Whereas by notification of Government of India in Ministry of Petroleum and Natural Gas number S.O. 2118 dated 18th August, 2010, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), Government of India declared its intention to acquire the Right of User in the land, specified in the Schedule appended to that notification for the purpose of laying Vijayawada-Nellore-Chennai gas pipeline for transportation of natural gas from on-shore gas processing terminal at Kakinada on East coast of Andhra Pradesh of M/s Reliance Industries Limited by M/s Relogistics Infrastructure Limited to the consumers in various parts of the country;

And whereas, the copies of the said Gazette notification were made available to the public on or before 22nd December, 2010;

And whereas, the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And whereas, the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Government of India;

And whereas, Government of India, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in Government of India, vest on the date of publication of the declaration, in M/s Relogistics Infrastructure Limited, free from all encumbrances.

Schedule

Mandal/Tehsil/Taluk:Kodavaluru		District: Sri Potti Sriramulu Nellore State:Andhra Pradesh		
Village	Survey No./Sub-Division No.	Area to be acquired for RoU		
		Hec	Are	C-Are
1	2	3	4	5
1) Kothavangallu	1399	01	31	11

Mandal/Tehsil/Taluk:Buchireddipalem District: Sri Potti Sriramulu Nellore State:Andhra Pradesh	
1) Iskapalem	522
	538
	539
	540
2) Vavveru	518
	Pond in Gat No.518
	536/1
	577
	582
	584
	585
	590
	597
	600
	601
	602
	605
	606
	608
	610
	611
	616
	617
	618
	620
	647/D
	648/A
	648/B
	650
	651
	652
	693
	694
	695
	697
	702

1	2	3	4	5
20 Vavveru (Contd)				
	703	00	36	08
	706	00	26	38
	717	00	30	88
	734/A	00	03	55
	797	00	01	31
	798	00	36	32
	803/2	00	05	01
	811/2	00	05	03
	812	00	34	78
	814	00	27	55
	817	00	02	47
	821/1	00	12	03
	822	00	24	08
	823	00	01	85
	824/2	00	04	71
	924	00	00	87
	925	00	40	53
	926	00	03	72
	929/1	00	08	02
	936/1	00	13	52
	939	00	01	99
	952	00	07	09
	953	00	17	81
	954/2	00	05	82
	954/3	00	28	85
	955	00	00	31
	958/2	00	03	94
	963/2	00	09	87
	968	00	07	92
	In bet suy no. 963/2 & 969	00	05	18
	1046	00	06	28
	1047	00	22	61
	1048	00	28	71
	1049	00	14	80
	1068	00	51	13
	1069	00	03	94
	1082	00	52	34
	1110	00	16	18
	1115	00	14	78
	1142	00	95	71
	1219	00	20	55
	1222	00	04	90

1	2	3	4	5
2) Vavveru (Contd)	1224	00	61	02
	1226	00	02	61
	1230	00	18	65
	1247	00	49	12
	1256	00	01	57
	1257	00	00	10
	583/1	00	10	15
	583/2	00	09	69
	598/A	00	24	09
	607/1	00	06	22
	615/A	00	19	71
	615/B	00	05	78
	619/A	00	17	69
	619/B	00	04	36
	621/A	00	03	09
	621/B	00	01	26
	649/A	00	12	63
	696/A	00	23	97
	696/B	00	00	12
	704/A	00	17	11
	704/B	00	01	28
	704/C	00	12	06
	707/B	00	04	80
	708/C	00	19	50
	718/A	00	01	03
	811/1A	00	32	47
	811/1B1	00	28	89
	818/A	00	10	56
	818/B	00	05	28
	938/A	00	10	15
	938/B	00	00	12
	969/1	00	36	82
	1022/A	00	36	94
	1022/B	00	11	58
	1023/A	00	16	80
	1037/C	00	09	38
	1080/1	00	02	73
	1080/2	00	01	74
	1080/4	00	00	32
	1080/5	00	06	77
	1080/6	00	10	21
	1080/7	00	08	09

1	2	3	4	5
2) Vavveru (Contd)				
	1081/9	00	04	29
	1081/10	00	02	73
	1081/11	00	01	12
	1083/9	00	00	23
	1083/10	00	00	95
	1086/8	00	03	28
	1087/1	00	14	36
	1087/2	00	08	10
	1092/1	00	03	17
	1096/1	00	20	42
	1096/2	00	13	52
	1096/3	00	00	11
	1097/2	00	00	12
	1097/3	00	09	19
	1097/4	00	03	17
	1102/2	00	02	87
	1102/3	00	05	97
	1102/4	00	21	36
	1103/1	00	33	09
	1103/3	00	01	01
	1108/1	00	06	59
	1109/2	00	02	45
	1109/4	00	07	60
	1109/5	00	09	31
	1109/6	00	08	29
	1109/8	00	14	08
	1111/1	00	08	79
	1114/1	00	03	59
	1114/2	00	05	66
	1114/3	00	01	38
	1114/4	00	08	13
	1114/5	00	02	53
	1243/2	00	07	74
	1243/3	00	11	16
	1243/4	00	06	59
	1243/5	00	01	26
	1244/2	00	02	69
	1244/3	00	07	04
	1244/4	00	04	73
	1244/5	00	02	40
	1244/6	00	00	10
	1245/3	00	01	12

1	2	3	4	5
2) Vavveru (Contd)	1245/4	00	01	22
	1245/5	00	14	70
	1246/13	00	01	33
	1250/1	00	08	90
	1250/2	00	00	49
	1251/8	00	06	52
	1251/9	00	17	40
	1251/10	00	17	62
	1251/11	00	03	93
	1252/7	00	10	00
	1252/8	00	20	73
	1252/9	00	13	27
	1252/10	00	00	26
3) kavetipalem	5	00	43	41
	8	00	31	00
	9	00	28	47
	10	00	03	17
	51	00	00	47
	53	00	05	40
	56	00	09	79
	57	00	10	05
	58	00	12	45
	59	00	17	53
	6/1	00	20	13
	6/2	00	05	99
4) Panchedu	1	00	02	45
	5	00	12	93
	6	00	32	18
	11	00	00	10
	180	00	00	16
	190	00	17	21
	191	00	09	89
	192	00	12	49
	199/2	00	02	56
	201	00	13	69
	203	00	12	09
	213/1	00	31	32
	214	00	04	48
	249	00	03	96
	251	00	04	67
	252	00	00	13
	253	00	33	38

1	2	3	4	5
4) Panchedu (Contd)				
	258	00	39	20
	259	00	04	74
	268	00	22	04
	347	00	00	10
	398	00	16	22
	399	00	00	10
	405	00	11	78
	406	00	03	71
	417	00	00	77
	419	00	15	21
	420	00	38	89
	421	00	05	30
	424	00	17	69
	425	00	36	55
	426	00	02	39
	532	00	02	46
	537	00	00	27
	538	00	51	94
	539	00	04	53
	540	00	37	27
	541	00	09	10
	542	00	06	51
	569	00	08	68
	4/A	00	01	98
	7/1	00	11	61
	7/2	00	12	31
	8/A	00	16	42
	8/B	00	00	62
	9/A	00	00	80
	9/B	00	00	10
	181/A	00	15	68
	199/1/1	00	14	61
	199/1/2	00	34	05
	202/A	00	12	38
	204/A	00	07	05
	204/B	00	05	54
	204/C	00	00	43
	205/1	00	19	45
	205/2	00	09	98
	206/1	00	01	56
	206/2	00	00	47
	212/A	00	20	65

1	2	3	4	5
4) Panchedu (Contd)	213/2B	00	02	77
	215/1A1	00	26	87
	215/1A2	00	03	12
	215/1B	00	05	96
	215/2/1	00	22	07
	216/2	00	02	94
	250/1A	00	31	50
	250/1B	00	07	86
	250/1C	00	10	63
	254/A	00	05	87
	254/B1	00	15	40
	254/C	00	01	73
	257/1	00	19	01
	257/2	00	01	00
	260A	00	02	92
	260/B	00	08	46
	402/A	00	10	11
	402/B	00	01	53
	402/C	00	15	03
	402/E	00	02	00
	407/B	00	00	10
	536/2	00	03	52
5) Penuballi	389	00	18	34
	394	00	05	56
	401/3	00	04	45
	405	00	49	50
	268/1	00	11	07
	268/2	00	00	50
	269/1A4	00	06	41
	269/2	00	10	37
	391/1	00	00	80
	391/2	00	09	23
	391/3	00	06	10
	391/4	00	06	20
	391/5	00	04	95
	392/1	00	10	90
	392/2	00	10	96
	392/3	00	09	14
	393/1	00	11	82
	398/2	00	00	28
	398/3	00	02	63
	398/4	00	06	46

1	2	3	4	5
5) Penuballi (Contd)				
	398/5	00	20	26
	399/1	00	36	06
	401/2/1	00	11	35
	401/2/2	00	02	54
	402/1	00	01	56
	402/2A	00	07	35
	402/2B	00	35	22
	404/1/ A1	00	17	65
	404/1 B1	00	18	05
	404/1/C	00	19	72
	404/2/1	00	03	62
	404/2/2	00	02	07
6) Minagallu	11/1	00	28	60
	11/2	00	10	78
	11/3	00	05	75
	268	00	24	63
	10/A1	00	50	17
	10/A2	00	00	62
7) Zonnavaada	6	00	00	98
	Nala in Gat no.6	00	00	44
	7	00	22	98
	8	00	62	69
	80	00	96	96
	Penner River in Gat No.81	01	38	45

Mandal/Tehsil/Taluk:Sangam	District: Sri Potti Sriramulu Nellore	State: Andhra Pradesh	
1) Duvvuru	21	01	33
	76/1	00	27
	77	00	72
	91/3	00	06
	95	00	33
	875	00	28
	876	00	08
	879	00	30
	887	00	06
	22/1	00	04
Mandal/Tehsil/Taluk:Nellore	District: Sri Potti Sriramulu Nellore	State: Andhra Pradesh	
1) Mannavarappadu	68	00	26
	70	00	19
	71	02	57
	62/3	00	35
	66/2	00	09
	67/1	00	18
	67/2	00	07
	67/3	00	23
			17

1	2	3	4	5
1) Mannavarappadu (Contd)	69/3	00	05	76
	69/4	00	04	40
	69/5	00	18	24
	69/6	00	19	87
	69/7	00	05	61
2) Amancherla	156	00	00	34
	159	00	27	68
	160	00	37	92
	163	00	35	91
	164	00	57	63
	183	00	32	16
	186	00	18	91
	211	00	41	30
	212/2	00	18	20
	214	00	03	01
	215	00	15	36
	220	00	26	14
	221	00	29	63
	222	00	37	26
	229/2	00	34	67
	235	00	09	42
	301	00	75	78
	302	00	00	93
	303/1	02	13	05
	308	00	69	02
	345/4	00	85	12
	419	02	84	11
	420	00	62	79
	182/1	00	05	14
	182/2	00	16	50
	182/3	00	14	23
	182/4	00	07	89
	182/5	00	08	78
	182/6	00	13	80
	182/7	00	16	29
	182/8	00	08	27
	182/9	00	03	67
	182/10	00	00	19
	213/B	00	04	30
	213/C	00	25	95
	223/B1	00	48	84
	304/1	00	53	73

	1	2	3	4	5
	Mandal/Tehsil/Taluk:Venkatachalam	District: Sri Potti Sriramulu Nellore	State: Andhra Pradesh		
10	Kusumur	Between VB & suy no. 117	18	13	90
	117	01	08	92	
	Kasumuru Pedda Cheruvu in Gat	01	39	56	
21	Kuricharlapadu	1	05	05	05
	38/1	00	00	10	
	39/1	00	00	43	
	39/2A	00	00	23	
	39/2B	00	00	75	
	40	01	19	18	
	41/1	00	30	36	
	42/2	00	35	14	
	42/3	00	21	37	
	47	00	01	31	
	48	00	05	88	
	78	00	45	38	
	79/5	00	04	94	
	80/1	00	11	80	
	80/2	00	00	50	
	81/1	00	04	40	
	81/4	00	13	24	
	81/5	00	16	08	
	81/6	00	03	88	
	84/10	00	06	05	
	84/4	00	22	91	
	84/5	00	01	55	
	84/7	00	00	25	
	84/8	00	00	30	
	84/9	00	10	72	
	96/4	00	26	70	
	96/6	00	19	05	
	97/1	00	12	19	
	97/4	00	14	27	
	97/5	00	15	02	
	98/1	00	01	73	
	98/2	00	18	07	
	98/3	00	29	11	
	98/4	00	01	49	
	103/1	00	00	42	
	103/2	00	00	10	
	103/3	00	03	23	
	108	00	56	06	
	109/2	00	00	84	

1	2	3	4	5
2) Kuricharlapadu (Contd)	109/3	00	08	76
	110/1	00	00	46
	110/2	00	30	50
	43/1	00	00	40

Mandal/Tehsil/Taluk:Manubolu	District: Sri Potti Sriramulu Nellore	State: Andhra Pradesh		
1) Vadlapudi	13	00	04	95
	14	00	14	42
	19	00	47	23
	20	00	03	25
	31	00	19	38
	37	00	14	92
	81	00	27	89
	83	00	66	70
	84	00	03	24
	86/A	00	10	03
	87/A	00	00	37
	89	00	49	48
	90	00	43	31
	96/A	00	42	59
	96/B	00	07	05
	Road in Gat No.96/B	00	01	74
	96/C	00	09	98
	103/A	00	01	75
	104	00	04	66
	105	00	60	40
	106	00	29	76
	108	00	01	84
	109/1	00	36	16
	109/2	00	00	16
	1133	00	15	89
	119	00	19	38
	158	00	21	33
	159	00	33	12
	161	00	00	10
	162	00	64	47
	15/1	00	01	27
	15/3A	00	06	69
	15/3B	00	14	83
	15/3C	00	09	65
	15/4	00	12	61
	15/5	00	13	07
	38/1	00	40	71
	118/1	00	00	78
	118/2	00	34	10
	127/1	00	40	20
	127/2	00	02	22
	131/2	00	69	01
	143/2B	00	02	71
	143/3C	00	00	68
	143/3F	00	31	13
	143/3G	00	03	34
	145/2	00	03	02

1	2	3	4	5
1) Vadlapudi (Contd)	156/1 156/2A 156/2B1 156/2C 157/1B 157/1C 160/4 160/5	.00 00 00 00 00 00 00 00	04 01 03 00 01 08 00 13	93 41 95 75 88 33 27 07
2) Akkamapeta	161 158/1 158/3 158/4 159/1 159/2 160/2	00 00 00 00 00 00 00	90 05 16 20 03 52 15	16 91 31 27 69 17 45
3) Madamanuru	247 248	00 00	14 71	67 01

[F. No. L-14014/56/2009-G.P.]
K. K. SHARMA, Under Secy.

नई दिल्ली, 20 अप्रैल, 2011

का. आ. 1102.—भारत सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 2269 तारीख 31 अगस्त, 2010 द्वारा, उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में, मैसर्स रिलाएंस इन्डस्ट्रीज लिमिटेड के आन्ध्र प्रदेश में पूर्वी तट पर काकीनाडा रिथेट अपतटीय गैस प्रगंकरण टर्मिनल में देश के विभिन्न हिस्सों में उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए, मैसर्स रिलोजिस्टिक्स इन्फ्रास्ट्रक्चर लिमिटेड द्वाग विजयवाडा- नेल्लोर - चेन्नई गैस पाइपलाइन विछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और, उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 21 दिसंबर, 2010 को अथवा उसमें पूर्व उपलब्ध करा दी गई थीं ;

और, पाइपलाइन विछाने के सम्बन्ध में, जनता की ओर से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और अनुनज्ञात कर दिया गया;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है ;

और, भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइन विछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से भारत सरकार में निहित होने के वजाए, सभी विलंगणों से मुक्त, मैसर्स रिलोजिस्टिक्स इन्फ्रास्ट्रक्चर लिमिटेड में निहित होगा ।

अनुसूची

मंडल/ तेहसिल/ तालुक : कावलि	जिला : श्री पोड्डि श्रीगम्भु नेल्लूरु	राज्य : आन्ध्र प्रदेश		
गाँव का नाम	सर्वे सं/सब डिविजन सं.	आर.ओ.यू. अनिंत करने के लिए क्षेत्रफल		
1	2	हेक्टेयर	एयर	सि एयर
1) चिंतपालेम	165/3	00	59	41
	165/4	00	02	10
	166/1	00	00	84
	167/2	00	11	20
	167/3	00	04	89
	167/4	00	37	39
	167/5	00	17	54
	170/1	00	18	85
	170/2	00	03	29
	173	00	22	73
	174	00	01	68
	175/2	00	04	33
	175/3ए	00	02	47
	175/3सी	00	24	91
	175/3डी	00	23	75
	176	00	57	63
	177	00	26	06
	179/2	00	00	44
	180	00	05	00
	181/2	00	17	58
	181/3	00	28	65
	184	00	03	49
	185/1	00	23	04
	185/2	00	06	75
	185/3	00	05	51
	185/4	00	29	06
	192	00	15	21
	193/1	00	14	90
	203/1	00	19	28
	203/2	00	40	89
	203/3	00	10	91
	203/5	00	24	44
	204	00	32	09
	205/1	00	04	82
	205/2	00	05	96
	206/1	00	41	59
	212	00	10	67

1	2	3	4	5
1) चिंतपालेम (निरंतर)				
215	00	00	10	
216/4	00	24	94	
220	00	04	86	
221/1	00	37	43	
221/2	00	16	06	
222	00	39	49	
223/1	00	38	22	
223/2	00	47	08	
226	00	09	08	
228	00	13	16	
229/1वी	00	00	77	

मंडल/ तेहसिल/ तालुक : जलदंकी	जिला : श्री पोष्टि श्रीरामुलु नेल्लूरु	राज्य : आन्ध्र प्रदेश
1) चामदाल		
43/1	00	07
44/प1	00	00
49/1वी	00	03
49/1ई	00	13
49/1एफ	00	07
49/2ए/2सी	00	17
49/2वी	00	22
50/1	00	36
50/2	00	08
50/3	00	00
53	00	03
54/1	00	15
54/2	00	10
55/1	00	18
55/2	00	16
56/1ए	00	06
56/2ए	00	13
56/2वी	00	03
57/1	00	02
57/2	00	01
57/3	00	02
57/4	00	01
68/2	00	00
68/3	00	26
116/1	00	01
116/2ए	00	04
116/2सी	00	35
117/2	00	06
117/3	00	26
117/4	00	00
119	00	86
		31

1	2	3	4	5
1) चामदाल (नियंत्र)	260	00	09	40
	264/1	00	03	92
	265/1ग	00	04	66
	265/1वी1	00	02	32
	265/2/1	00	08	14
	266/1ए	00	07	03
	266/2ए	00	13	56
	267/2	00	05	71
	267/3	00	00	10
	269	00	09	70
	270/1	00	00	28
	270/2	00	05	32
	271/1	00	19	61
	271/2	00	00	53
	272	00	19	60
	298	00	43	66
	299/1/2	00	13	00
	299/2	00	11	79
	300	00	05	21
	301	00	00	55
	302/1	00	00	50
	302/2डी3	00	03	85
	302/2ई	00	16	89
	302/2एफ	00	14	64
	302/2जी	00	16	28
	302/2एच	00	12	63
	302/2आय	00	00	80
	323/2	00	00	17
	324/1	00	15	16
	326/1	00	09	80
	327/1	00	00	11
	327/2	00	13	12
	327/3	00	19	95
	327/5	00	07	31
	328/2	00	07	59
	336	00	00	62
	337	00	14	82
	338	00	39	00
	354	00	25	62
	355/1	00	20	80
	355/2	00	04	22
	357	00	19	44

1	2	3	4	5
1) चामदाल (निंता)	358	00	35	99
	359	00	16	73
	360	00	26	76
	361	00	34	91
	362	00	07	70
	373	00	27	58
	374	00	48	60
	382	00	44	56
	384	00	53	78
	385	00	22	84
	386	00	31	19
	388	00	42	11

मंडल/ तेहसिल/ तालुक : नेल्लूर	जिला : श्री पोद्वि श्रीरामुलु नेल्लूर	राज्य : आन्ध्र प्रदेश
1) मुलुमुदि	110	00 24 39
	114	00 35 74
	115	00 57 97
	120/1	00 45 62
	120/2	00 05 25
	124	00 31 05
	138	00 08 43
	139/1	00 18 33
	139/2	00 02 90
	147	00 21 68
	148	00 29 41
	149	00 18 17
	152	00 37 67
	153	00 23 58
	154	00 27 65
	155	00 18 77
	156	00 00 56
	157	00 00 86
	333/ए	00 03 33
	333/बी	00 01 18
	333/सी	00 11 14
	333/डी	00 05 69
	333/ई	00 02 72
	333/एफ	00 01 94
	333/जी	00 09 58
	334/ए	00 01 89
	334/बी	00 02 36
	335	00 03 56
	336	00 07 70
	337/ए	00 00 56

1	2	3	4	5
1) मुलमुदि (निरंतर)	337/वी	00	00	98
	337/सी	00	03	13
	337/डी	00	10	60
	337/ई	00	00	10
	338	00	00	98
	344	00	13	37
	345	00	03	18
	346/वी	00	23	68
	347	00	31	03
	348	00	02	35
	350/ए	00	22	89
	351/ए	00	07	86
	351/वी	00	00	10
	352	00	06	30
	353/1	00	45	50
	353/2	00	09	31
	427/ए	00	10	31
	428 ए	00	17	85
	428/वी	00	08	40
	430/ए	00	10	60
	430/वी	00	17	45
	431/ए	00	03	27
	431/वी	00	06	18
	431/सी	00	10	13
	431/डी	00	00	74
	469	00	48	87
	647	00	49	92
	653/1	02	16	02
	727	00	90	47
	737	00	36	28
	738	00	61	45
	743	00	06	81
	गट नंवर 743 और 744/5 में वैल... का रास्ता	00	08	18
	744/5	00	03	22
	745	00	43	76
	747	00	29	52
	752	00	34	62
	753	00	99	19
	754	01	61	10

मंडल/ तेहसिल/ तालुक : पेल्लाकूर	जिला ३ श्री पोद्दि श्रीरामुलु नेल्लूर	राज्य ३आन्ध्र प्रदेश
1) जील्लापाटूर	26/1	00 06 66
	26/2	00 00 50
	26/3	00 02 15

1	2	3	4	5
1) जील्लापाटूर (निरंतर)	2 6/5	00	02	81
	2 6/6	00	06	10
	2 6/7	00	02	80
	2 6/10	00	00	51
	2 6/11	00	02	24
	2 6/12	00	07	43
	2 6/13	00	07	26
	2 6/17	00	01	84
	2 7/4	00	04	08
	2 7/7	00	04	63
	2 7/8	00	04	20
	2 7/9	00	04	73
	2 7/10	00	02	22
	2 7/12	00	02	20
	2 8/5	00	04	18
	2 8/6	00	11	20
	2 9/8	00	10	21
	2 9/9	00	09	35
	2 9/10	00	06	23
	2 9/11	00	03	40
	4 8/8	00	07	94
	4 8/9	00	11	78
	4 8/10	00	06	86
	4 9/5	00	12	06
	4 9/6	00	03	30
	4 9/8	00	08	32
	4 9/9	00	10	16
	5 1/1	00	00	49
	5 1/2	00	23	03
	5 2/1	00	08	75
	5 2/2	00	04	27
	5 2/3	00	14	63
	5 2/7	00	15	01
	5 2/9	00	07	60
	5 2/10	00	03	30
	5 2/11	00	09	62
	5 3/3	00	08	11
	5 3/4	00	15	63
	5 3/5	00	18	20
	6 0	00	40	56
	6 1/2	00	20	37
	6 1/3	00	56	96
	10 6/2	00	07	58
	10 6/5	00	08	45
	10 6/6	00	05	94
	10 6/7	00	03	79
	10 6/8	00	09	75
	10 7/5	00	36	51
	10 7/6	00	15	18
	10 7/7	00	00	65

1	2	3	4	5
1) जील्लापाट्टा (निरंतर)	108 119/1 119/4	00 00 00	41 02 06	07 08 31
2) चेन्नप्पनयुडुपोट	68/1 68/4 91/7 91/9 91/10 91/11 92/1 92/2 93 105 108 109/पी 112/2	00 00 00 00 00 00 00 00 00 00 00 00 00	03 01 00 01 00 00 05 03 69 53 31 38 37	52 03 11 09 75 10 55 43 88 48 26 27 11

[फा सं. एल.-14014/45/2010-जी.पी.]

के. के. शर्मा, अवर सचिव

New Delhi, the 20th April, 2011

S. O. 1102.—Whereas by notification of Government of India in Ministry of Petroleum and Natural Gas number S.O. 2269 dated 31st August, 2010, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), Government of India declared its intention to acquire the Right of User in the land, specified in the Schedule appended to that notification for the purpose of laying Vijayawada-Nellore-Chennai gas pipeline for transportation of natural gas from on-shore gas processing terminal at Kakinada on East coast of Andhra Pradesh of M/s Reliance Industries Limited by M/s Relogistics Infrastructure Limited to consumers in various parts of the country;

And whereas, the copies of the said Gazette notification were made available to the public on or before 21st December, 2010;

And whereas, the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government of India;

And whereas, Government of India, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in Government of India, vest on the date of publication of the declaration, in M/s Relogistics Infrastructure Limited, free from all encumbrances.

Schedule

Mandal/Tehsil/Taluk:Kavali		District: Sri Potti Sriramulu Nellore State: Andhra Pradesh		
Village	Survey No./Sub-Division No.	Area to be acquired for RoU		
		Hec	Are	C-Are
1	2	3	4	5
1) Chintapalem	165/3	00	59	41
	165/4	00	02	10
	166/1	00	00	84
	167/2	00	11	20
	167/3	00	04	89
	167/4	00	37	39
	167/5	00	17	54
	170/1	00	18	85
	170/2	00	03	29
	173	00	22	73
	174	00	01	68
	175/2	00	04	33
	175/3A	00	02	47
	175/3C	00	24	91
	175/3D	00	23	75
	176	00	57	63
	177	00	26	06
	179/2	00	00	44
	180	00	05	00
	181/2	00	17	58
	181/3	00	28	65
	184	00	03	49
	185/1	00	23	04
	185/2	00	06	75
	185/3	00	05	51
	185/4	00	29	06
	192	00	15	21
	193/1	00	14	90
	203/1	00	19	28
	203/2	00	40	89
	203/3	00	10	91
	203/5	00	24	44
	204	00	32	09
	205/1	00	04	82
	205/2	00	05	96
	206/1	00	41	59
	212	00	10	67

1	2	3	4	5
1) Chintapalem (Contd)	215	00	00	10
	216/4	00	24	94
	220	00	04	86
	221/1	00	37	43
	221/2	00	16	06
	222	00	39	49
	223/1	00	38	22
	223/2	00	47	08
	226	00	09	08
	228	00	13	16
	229/1B	00	00	77

Mandal/Tehsil/Taluk:Jaladanki	District: Sri Potti Sriramulu Nellore	State: Andhra Pradesh
1) Chamadala	00	07 72
43/1	00	00 69
44/A1	00	03 37
49/1D	00	13 00
49/1E	00	07 22
49/1F	00	17 76
49/2A/2C	00	22 10
49/2B	00	36 54
50/1	00	08 09
50/2	00	00 10
50/3	00	03 46
53	00	15 76
54/1	00	10 13
54/2	00	18 40
55/1	00	16 88
55/2	00	06 32
56/1A	00	13 67
56/2A	00	03 64
56/2B	00	02 21
57/1	00	01 96
57/2	00	02 60
57/3	00	01 72
57/4	00	00 88
68/2	00	26 44
68/3	00	01 08
116/1	00	04 95
116/2A	00	35 41
116/2C	00	06 19
117/2	00	26 27
117/3	00	00 86
117/4	00	26 31
119	00	

1	2	3	4	5
1) Chamadala (Contd)				
	260	00	09	40
	264/1	00	03	92
	265/1A	00	04	66
	265/1B1	00	02	32
	265/2/1	00	08	14
	266/1A	00	07	03
	266/2A	00	13	56
	267/2	00	05	71
	267/3	00	00	10
	269	00	09	70
	270/1	00	00	28
	270/2	00	05	32
	271/1	00	19	61
	271/2	00	00	53
	272	00	19	60
	298	00	43	66
	299/1/2	00	13	00
	299/2	00	11	79
	300	00	05	21
	301	00	00	55
	302/1	00	00	50
	302/2D3	00	03	85
	302/2E	00	16	89
	302/2F	00	14	64
	302/2G	00	16	28
	302/2H	00	12	63
	302/2I	00	00	80
	323/2	00	00	17
	324/1	00	15	16
	326/1	00	09	80
	327/1	00	00	11
	327/2	00	13	12
	327/3	00	19	95
	327/5	00	07	31
	328/2	00	07	59
	336	00	00	62
	337	00	14	82
	338	00	39	00
	354	00	25	62
	355/1	00	20	80
	355/2	00	04	22
	357	00	19	44

1	2	3	4	5
1) Chamadala (Contd)				
	358	00	35	99
	359	00	16	73
	360	00	26	76
	361	00	34	91
	362	00	07	70
	373	00	27	58
	374	00	48	60
	382	00	44	56
	384	00	53	78
	385	00	22	84
	386	00	31	19
	388	00	42	11

Mandal/Tehsil/Taluk:Nellore	District: Sri Potti Sriramulu Nellore	State: Andhra Pradesh	
1) Mulumudi	110	00	24
	114	00	35
	115	00	57
	120/1	00	45
	120/2	00	05
	124	00	31
	138	00	08
	139/1	00	18
	139/2	00	02
	147	00	21
	148	00	29
	149	00	18
	152	00	37
	153	00	23
	154	00	27
	155	00	18
	156	00	00
	157	00	00
	333/A	00	03
	333/B	00	01
	333/C	00	11
	333/D	00	05
	333/E	00	02
	333/F	00	01
	333/G	00	09
	334/A	00	01
	334/B	00	02
	335	00	03
	336	00	07
	337/A	00	00

1	2	3	4	5
1) Muhumudi (Contd)				
	337/B	00	00	98
	337/C	00	03	13
	337/D	00	10	60
	337/E	00	00	10
	338	00	00	98
	344	00	13	37
	345	00	03	18
	346/B	00	23	68
	347	00	31	03
	348	00	02	35
	350/A	00	22	89
	351/A	00	07	86
	351/B	00	00	10
	352	00	06	30
	353/1	00	45	50
	353/2	00	09	31
	427/A	00	10	31
	428 A	00	17	85
	428/B	00	08	40
	430/A	00	10	60
	430/B	00	17	45
	431/A	00	03	27
	431/B	00	06	18
	431/C	00	10	13
	431/D	00	00	74
	469	00	48	87
	647	00	49	92
	653/1	02	16	02
	727	00	90	47
	737	00	36	28
	738	00	61	45
	743	00	06	81
	Between Sy No 743 & 744/5 Car Track	00	08	18
	744/5	00	03	22
	745	00	43	76
	747	00	29	52
	752	00	34	62
	753	00	99	19
	754	01	61	10

Mandal/Tehsil/Taluk:Pellakur	District: Sri Potti Sriramulu Nellore	State:Andhra Pradesh	
1) Jeellapatur	26/1	00	06
	26/2	00	00
	26/3	00	02
	26/5	00	02
	26/6	00	06
	26/7	00	02
	26/10	00	00
	26/11	00	02
	26/12	00	07
	26/13	00	07
	26/17	00	01
	27/4	00	04
	27/7	00	04
	27/8	00	04
	27/9	00	04
	27/10	00	02

1	2	3	4	5
1) Jeellapatur (Contd)	27/12	00	02	20
	28/5	00	04	18
	28/6	00	11	20
	29/8	00	10	21
	29/9	00	09	35
	29/10	00	06	23
	29/11	00	03	40
	48/8	00	07	94
	48/9	00	11	78
	48/10	00	06	86
	49/5	00	12	06
	49/6	00	03	30
	49/8	00	08	32
	49/9	00	10	16
	51/1	00	00	49
	51/2	00	23	03
	52/1	00	08	75
	52/2	00	04	27
	52/3	00	14	63
	52/7	00	15	01
	52/9	00	07	60
	52/10	00	03	30
	52/11	00	09	62
	53/3	00	08	11
	53/4	00	15	63
	53/5	00	18	20
	60	00	40	56
	61/2	00	20	37
	61/3	00	56	96
	106/2	00	07	58
	106/5	00	08	45
	106/6	00	05	94
	106/7	00	03	79
	106/8	00	09	75
	107/5	00	36	51
	107/6	00	15	18
	107/7	00	00	65
	108	00	41	07
	119/1	00	02	08
	119/4	00	06	31
2) Chennappanaidupeta	68/1	00	03	52
	68/4	00	01	03
	91/7	00	00	11
	91/9	00	01	09
	91/10	00	00	75
	91/11	00	00	10
	92/1	00	05	55
	92/2	00	03	43
	93	00	69	88
	105	00	53	48
	108	00	31	26
	109/P	00	38	27
	112/2	00	37	11

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 21 मार्च, 2011

का.आ. 1103.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड इण्डिया इन्स्योरेन्स कम्पनी लिमिटेड, चेन्नई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 38/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 21-3-2011 को प्राप्त हुआ था।

[सं. एल-17012/10/2010- आई आर (एम)]
जोहन तोपनो, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 21st March, 2011

S.O. 1103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 38/2010) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United India Insurance Co. Ltd. and their workman, which was received by the Central Government on 21-3-2011.

[No. L-17012/10/2010-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 2nd March, 2011

INDUSTRIAL DISPUTE No. 38/2010

Present : A.N. JANARDANAN, Presiding Officer

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of United India Insurance Co. Ltd. and their Workmen]

BETWEEN

Sri G. Ramulu

: Petitioner/1st Party

And

: 2nd Respondent/
2nd Party

APPEARANCES:

For the 1st Party/
Petitioner

: M/s. K. Venkatesan &
V. Murugan, Advocates.

For the 2nd Party/
Management : M/s. S. Vijaydharani &
S. Chandrasekaran
Advocates.

AWARD

The Central Government, Ministry of Labour vide its Order No. L-17012/10/2010-IR(M) dated 16-11-2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of the United India Insurance Co. Ltd. in terminating the services of Sri G. Ramulu, is legal and justified ? To what relief the concerned workman is entitled ??”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 38/2010 and issued notices to both sides entered appearance, initially through Advocates and the petitioner also filed Claim Statement. No Counter Statement was by the Respondent. Subsequently both the petitioner and the Respondent remained absent consistently and eventually they have been called absent and set ex-parte.

3. A brief recitals of the averments in the Claim Statement are as follows :

Petitioner with a study upto 10th Standard appointed as Caretaker in Transit Camp at Koyambedu, SAF Games Village w.e.f. 1-10-1985 having a continuous service of a length of 20 years with last drawn monthly wages of Rs. 8,675 was issued with Charge Memo dated 6-6-2005 raising allegations to which he submitted explanation. There was a farce enquiry held with no opportunity for him resulting in his dismissal from service on 14-10-2005 putting him in economic death. He has lost 3 years without employment. His Date of Birth is 12-7-1967. No statutory rule or principles of natural justice were followed in the enquiry. The ID raised having failed culminating in failure report, the reference is caused to be made for a finding that his non-employment is not justified and with prayer for his reinstatement with all benefits.

4. Petitioner being absent and set ex-parte. No evidence is adduced.

5. Points for consideration is :

“Whether the termination of petitioner from service is legal and justified ??”

Point

6. By shunning this Court consistently by the Petitioner and though by the Respondent too, in the absence of any evidence adduced to substantiate the contention of the petitioner as made in the Claim Statement he is not entitled to succeed. Here is a petitioner who filed a Claim Statement with averments alleging him to have

been terminated from service by the Respondent after a farce enquiry without giving him an opportunity to effectively participate in it on certain grave charges, without giving any details of it, making the allegations perse bald without the particulars thereof, who as not turned up thereafter before this Court to further proceed with the matter. Though the Respondent is also equally at fault the petitioner is not entitled to his demand being approved without his case being proved. There is a maxim the meaning of which reads as "when both parties are at equal fault the condition of the defendant is better." When the petitioner wants the Court to believe in the existence of facts favourable to him should he succeed the burden of proof is on him. He has not discharged that burden by his conduct of shunning the forum of this Court after having laid the Claim Statement. His latches marked by his conspicuous and consistent absence and which cannot be condoned the matter is proceeded with ex-parte. While petitioner avers that he was charged with some allegations and that the enquiry held was farce he has not chosen to whisper what the allegations are and how or why the enquiry held is assailed by him as being farce. Without anything to that score his challenge is only bald.

7. The Petitioner having not proved his entitlement to the claim he is not entitled to any relief and it is only to be held that his termination from service is legal and justified. So found.

8. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd March, 2011)

A.N. JANARDANAN, Presiding Officer

Witness Examined

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked :

On the petitioner's side

Ex. No.	Date	Description
		Nil

On the Management's side

Ex. No.	Date	Description
		Nil

नई दिल्ली, 21 मार्च, 2011

का.आ. 1104—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मैसर्स ओ.एन. जी.सी. अहमदाबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट

(संदर्भ संख्या 5/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 21-3-2011 को प्राप्त हुआ था।

[सं. एल-15025/1/2011- आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 21st March, 2011

S.O. 1104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 5/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation Ltd. Ahmedabad and their workmen, which was received by the Central Government on 21-3-2011.

[No. L-15025/1/2011-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE COURT OF CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present: SHRI BINAY KUMAR SINHA, Presiding Officer

Dated : 27th of December, 2010

Place: Ahmedabad

In the matter vide Complaint (C.G.I.T.A.) No. 5/2004 Under Section 33-A

Between:

Shri Hasmukh K. Makwana, Kalol.Applicant

Versus

1- The Group General Manager (IRS),
Oil and Natural Gas Corporation Ltd.,
Avni Bhavan, Chandkheda,
Ahmedabad-380 005.

2. The Regional Director,
Oil and Natural Gas Corporation Ltd.,
Western Region, Business Centre,
Makarpura Road, Baroda.

3. Chandodiya Mazdoor Kamdar Sahakari Mandli Limited,
179, Ambika Krupa Society, Ranip,
Ahmedabad.

4. Lokpriya Labour and Engineering Co-Operative Society
Limited,
308, Karishma Complex, C. G. Road,
Stadium Circle, Navrangpura,
Ahmedabad.

5. Rajdeep Group Mazdoor Kamdar Sahakari Mandli Limited,
Vadmata Society, IOC Road, Chandkheda,
Gandhinagar.

6. Parishram Labour Co.-Operative Society Limited, 19, Sahajanand Shopping Centre, Shahibaug, Ahmedabad-4.

7. Public Power Mazdoor Sahakari Mandli Limited, 10, Mahatma Gandhi Shopping Centre, Raj Mahel Road, Mehsana.

8. Industrial Security Services (ISS), Parichay Shopping Centre, 'D' Cabin, Sabarmati, Ahmedabad.

.... Opponents

For the Applicant : Representative

Shri K. K. Rathod, General

Secretary,

Om Shakti Labour

Association, Ahmedabad

Shri K. V. Gadhia,

Advocate

for the Opponent No. 1 & 2

For the Opponents : Representative

AWARD

1. This is a Complaint U/s. 33-A of the I. D. Act, by the workman namely Shri Hasmukh K. Makwana through the Labour Union, alleging the change of service condition by the Opponent Nos. 1 to 8 during pendency of the reference case (ITC) No. 35/98(CGITA- No.80/2004).

Facts given arise to this case, shortly stated, is that the complainant with other workmen was working in well stimulation services department under control of Opponent No.1 & 2 through the contractor Rajdeep Group Mazdoor Kamdar Sahakari Mandli Limited (Opponent No. 5) and through Opponent Nos. 3 to 8 raised a charter of demand with management of ONGC Ltd. and resulting in the dispute was referred for adjudication vide aforesaid reference case. It has been alleged that in the reference case an interim Relief had been granted by the order dated 29-1-99 restraining the Opposite party from resuming the duties but, during the pendency of the reference case, he was not allowed to resume duty from 24-3-2000 and thus the opposite parties contravened the provisions of I. D. Act, making prayer for his reinstatement to the work with order as to payment of wages with further prayer for cost of this litigation.

Opponent No.1 & 2 appeared to contest this case and filed Written Statement whereas other opponents including opponent No.5 the contractor did not appear in this case. The contention of opponents No. 1 & 2 are that the complainant never work directly with these opponent, rather a contract job was awarded by opponent No.1 & 2 to the contractor Chandlodiya Mazdoor Kamdar Sahakari Mandli Limited(Opponent No.3) and the said contractor has engaged the workers and thereafter new contractor Rajdeep Group Mazdoor Kamdar Sahakari Mandli Limited (Opponent No.5) since 1-3-99. Further contention is that since these opponents are not employer/Master of

the complainant, so they are not at all responsible in this case and so this complaint is fit to be dismissed against these opponents.

For adjudicating up on this case the complainant and opponent No.1 & 2 adduced oral and documentary evidences. Exh. 18/1 is the deposition in form of affidavit of the complainant. During cross examination, complainant, stated that ONGC has not given any appointment letter. From the documents filed, it has come that the contractor was paying salary to him, but from Exh.18/7 an order dated 19-2-99 issued from the Industrial relation ONGC, it appears that some directions are mentioned about the consolidating the information regarding interim relief stayed by the Industrial Tribunal. The lists of contract laborers which were protected by the Tribunal in various cases, including of the reference case ITC-35/98, which go to show that the management of ONGC through opponent No.1 & 2 were also knowing about interim relief granted in reference ITC-35/98 original. It is admitted that, this complaint case is the off suits of reference ITC-35/98. So, it may be said that though opponent No.1 & 2 are denying that the complainant had been appointed by them, but such fact was very well in the notice of Opponent No.1 & 2 that complainant is contractors worker and there is interim relief granted in reference ITC-35/98 for maintaining a status-quo in other words means not to disturb the service condition of the workmen involved in the aforesaid reference.

Exh.26 is the affidavit of witness of ONGC (Opponent No.1 & 2) Shri Gunneet Singh Makkar who in his evidence stated that complainant was engaged as a worker by the contractor Rajdeep Group Mazdoor Kamdar Sahakari Mandli Limited (Opponent No.5) and that ONGC never appointed complainant and there is no relation of Master and Servant.

From the materials on the record that the services of the complainant was transferred by contractor Chandlodiya Mazdoor Kamdar Sahakari Mandli Limited (Opponent No.3) to the contractor Rajdeep Group Mazdoor Kamdar Sahakari Mandli Limited(Opponent No.5) with direction to join the new working place at Sabarmati and it has come that as per order of transfer the complainant was not allowed to join at Sabarmati by opponent No.5 nor the contractor opponent No.3 restored the complainant to join duty to the place on his previous work. So, it has been proved that the service condition of the complainant has been changed during pendency of the reference ITC-35/98 and the complainant has been kept out of work by the contractor and such fact was. also in the notice of the ONGC Ltd. (Opponent No.1 & 2) and so, during pendency of reference case ITG-35/98 at least the management ONGC Ltd., without prejudice to its stand that the complainant is not its workman, has to ensure about restoration of the complainant on his work, taking into account, the alleged misdeeds done by the contractors in removing/not allowing the complainant to resume his duty.

For the reasons given in the forgoings, this complaint case is allowed with the following directions; that the opposite-parties except opponent Nos. 4 & 6 will ensure for restoration of the complainant to his condition of service and work-during the pendency of reference case ITC-35/98 and opponent No. 1 & 2 will ensure that the contractors must allow the complainant to resume his work either on the transferred place at Sabarmati under contractor Rajdeep Group Mazdoor Kamdar Sahakari Mandli Limited (Opponent No.5) or to resume and restore his duty with the contractor Chandlodiyा Mazdoor Kamdar Sahakari Mandli Limited (Opponent No.3), who had issued the transfer order of the complainant. Further Opponent No.3 and 5 are directed to pay the cost of this case at the rate of Rs.1 000 each to the complainant. Further the opposite parties are directed to ensure that during pendency of the Reference case ITC-35/98 (CGITA No.80/2004) the complainant workman be paid his wages at par with other workmen who are involved in the Reference case ITC-35/98 (od) CGITA No.80/2004, from the date of this award, without prejudice to the merit and respective stands of the parties in the aforesaid Reference Case.

Let copies of this award be sent in cover to the Appropriate Government addressing to the Under Secretary, Ministry of Labour & Employment, New Delhi for the needful.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 21 मार्च, 2011

का.आ. 1105.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ. एन. जी. सी. मुम्बई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं.2, मुम्बई के पंचाट (संदर्भ संख्या 18/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2011 को प्राप्त हुआ था।

[सं. एल-15025/1/2011-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 21st March, 2011

S.O. 1105.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 18/2005) of the Central Government Industrial Tribunal/Labour Court, No.-2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation Ltd. Mumbai and their workmen, which was received by the Central Government on 21-3-2011.

[No. L-15025/1/2011-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K. B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/3 OF 2008

IN

Reference No. CGIT-2/18 of 2005

General Employees Association,

Tel Rasayan Bhavan,

Tilak Road,

Dadar (E)

Mumbai - 400 014. : Complainant

V/s.

Oil & Natural Gas Corporation Ltd.,

NSE Building,

Bandra Kurla Complex,

Bandra (East)

Mumbai - 400 051 : Opposite Party

APPEARANCES:

For the Complainant : Mr. J. H. Sawant, Advocate.

For the Opposite Party : Mr. G. D. Talreja,
Representative

Mumbai, dated the 24th December, 2010

AWARD

1. The General Employees Association a Trade Union has filed this Complaint under Section 33-A of the Industrial Disputes Act against the management of ONGC, Mumbai. According to the complainant, the General Employees Association authorized by workmen to file the complaint under Section 33-A of Industrial Disputes Act against the opposite party for violation of Section 33 of I. D Act. According to it, the Opposite party has refused the work and wages and consequential benefits to Shri Prashant G. Naik and 15 other workmen covered and concerning the adjudication proceeding in Ref. CGIT-2/18 of 2005 w.e.f 9-3-2008. According to them, the opposite party has altered the conditions of services of the workmen to cause prejudice to them during pendency of the adjudication of the proceeding. It has given the list of workmen to whom they have denied wages, work and consequential benefits w.e.f 9-3-2008, therefore, they have filed this complaint and prays that the ONGC Ltd. be held guilty for the said offence. The complainant also prays that the opposite party company be directed to make payment of wages to the workmen w.e.f. 9-3-2008. Complainant also prays for direction to the company to allow the workmen to resume their duties and to grant them all the consequential benefits on the basis of their continuous employment. The complainant also prays that

punishment be awarded to the opposite party for contravention of provisions under Section 33 of Industrial Disputes Act.

2. The Opposite party ONGC resisted the complaint vide its written statement at Ex.6. According to them Shri Prashant G. Naik and 14 others on whose behalf this complaint is filed are not workmen within the meaning of Section 2 (s) of the I.D. Act 1947. Therefore Complaint under Section 33-A of I.D. Act is not maintainable. It is further contended that the above said 15 persons are not covered by order of reference dated 16-4-2004 and statement of claim dated 27-6-2005, therefore the present complaint is not tenable. The complaint is bad for non-joinder of necessary parties as M/s. Noble Engineers, Panvel M/s. A. R. Engineers, Navi Mumbai are necessary parties. The names of persons who are complainants are not being annexed to the order of reference. These 15 workers have no concern with the reference, they are not workmen, therefore the opposite party, ONGC prays that the complaint be dismissed. The complaint was kept for hearing. On 24-12-2010 it was posted for hearing. On that day the complainant has withdrawn the complaint vide their purshis Ex.7. As complaint is withdrawn by and on behalf of the complainant, I proceed to pass the following order:

ORDER

The complaint stands dismissed for want of prosecution with no order as to cost.

Date: 24-12-2010

K. B. KATAKE, Presiding Officer

नई दिल्ली, 21 मार्च, 2011

का.आ. 1106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ओ. एन. जी. सी. मुम्बई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.2, मुम्बई के पंचाट (संदर्भ संख्या 18/2005) के प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2011 को प्राप्त हुई था।

[सं. एल-15025/1/2011-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 21st March, 2011

S.O. 1106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 18/2005) of the Central Government Industrial Tribunal No. 2 Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation Ltd. Mumbai and their

workmen, which was received by the Central Government on 21-3-2011.

[No. L-15025/1/2011-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K. B. KATAKE, Presiding Officer

COMPLANT NO. CGIT-2/5 OF 2008

IN

Reference No. CGIT-2/18 of 2005

General Employees Association,
Tel Rasayan Bhavan,
Tilak Road,
Dadar (E)
Mumbai - 400 014.

: Complainant

Vs.

Oil & Natural Gas Corporation Ltd.,
NSE Building,
Bandra Kurla Complex,
Bandra (East)
Mumbai - 400 051

: Opposite Party

APPEARANCES:

For the Complainant : Mr. J. H. Sawant, Advocate.

For the Opposite Party : Mr. G. D. Talreja,
Representative

Mumbai, dated the 3rd January, 2011

AWARD

1. The General Employees Association a Trade Union has filed this complaint against ONGC Ltd. under Section 33-A of the Industrial Disputes Act for violation of Section 33 of I.D. Act. According to them, the opposite party has refused work and wages and consequential benefits to the four workers w.e.f. 17-12-2008. Therefore according to complainant the opposite party is liable to be punished under Section 33 of the Act and the four workmen are entitled to the relief to the extent of payment of wages and consequential benefits to them from 17-12-2008. These workmen were paid their wages through one of the so called contractors of ONGC for their work. Complainant prays that the opposite party be declared and hold that it has violated the provisions of Section 33 of I. D. Act. Therefore they be awarded punishment under Section 33 and also prays to direct the opposite party to make payment to the complainant w.e.f. 17-12-2008 and to allow them to resume their duties and all consequential benefits and any other order deemed fit.

2. The Opposite party resisted the complaint vide its written statement at Ex.8. According to them the complaint is not maintainable in the eye of law. The four workmen referred in the complaint are not workmen within the meaning of Section 2 (s) of the I.D. Act. The complaint is bad for non-joinder of necessary and proper party. These workers were engaged by M/s. S. S. Constructions Pvt. Ltd. The complainant union has not approached this Tribunal for continuation of the status quo order dt. 4-2-2005 passed by Honb'ble High Court. The complainant union has made false statement that the opposite party has refused work and wages to four workmen w.e.f. 17-12-2008. The complaint is misconceived and not tenable. The opponent has not violated the provisions of Section 33 of I.D. Act as has been alleged. They denied all the allegations and pray that the complaint be dismissed.

3. After filing of written statement the case was kept for documents and evidence of the complainant. Complainant took number of dates for filing affidavit and documents. Finally the learned advocate for the complainant has withdrawn the complaint vide his purshis Ex.11. Therefore I proceed to pass the following order:

ORDER

The complaint stands dismissed for want of prosecution.

Date : 03-1-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 22 मार्च, 2011

का.आ. 1107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में, केन्द्रीय सरकार इंडीयन रेआर अर्थसं लिमिटेड मणवालकुरिचि के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम व्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 20/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-3-2011 को प्राप्त हुआ था।

[सं. एल-29011/1/2008 आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 22nd March, 2011

S.O. 1107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (Ref. No. 20/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Rare Earths Ltd. Manayalakurichi and their workmen, which was received by the Central Government on 22-3-2011.

[No. L-29011/1/2008-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Monday, the 28th February, 2011

Present : A.N. JANARDANAN Presiding Officer

Industrial Disputes No. 20/2008

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Rare Earths Ltd. and their Workmen)

BETWEEN

The President, : 1st Party/Petitioner
Mineral Workers Union,
C/o Indian Rare Earths Ltd.
Manayalakurichi-629252

V/s.

The General Manager, : 2nd Party/
Indian Rare Earths Ltd. Respondent
Manayalakurichi-629252

APPEARANCE:

For the 1st Party/ Petitioner	:	M/s. S Arunachalam & Associates, Advocates
For the 2nd Party/ Management	:	M/s. S. Ramasubra- maniam & Associates, Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-29011/1/2008-IR (M) dated 7-4-2008 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of the Indian Rare Earths Ltd. Manayalakurichi in not enhancing the annual incentive scheme beyond 42% as demanded by Minerals Workers Union even though the productivity levels have gone up is justified or not? If not, to what relief the workmen are entitled?”

2. After the receipt of the Industrial Dispute, the referred ID was taken on file as ID 20/2008 and issued notices to both sides. Both sides entered appearance through their Advocates and filed their Claim and Counter Statement as the case may be.

3. The averments in the Claim Statement briefly read as follows:

The matter is in relation to the enhancement of Annual Incentive Payment agreed in the Wage Settlement dated 24-06-2001 to which Petitioner Union is signatory and the consequential minutes dated 27-04-2001. The said settlement came into force retrospectively from 1-07-1998 for a period of 5 years till 30-06-2003. The calculation to be arrived at on the weightage for minerals, actual manpower, etc. are covered under Clause-17 of the Settlement. The Annual Incentive Payment Percentage prescribing maximum ceiling is incorporated in Item No. 48 of the minutes dated 27-04-2001 which forms part of the settlement. The relevant clause in the minutes is: 48: Annual Incentive from 1-11-1999. The annual total excess incentive payment percentage over 180% will be paid at the existing rate for the actual percentage subject to a maximum of 420% annually payable annually at Onam and revisable in 2003 or at the time of capacity expansion of the plant whichever is earlier. This system of paying incentive is not new and is increased from 180% to 420% made annually. The ladder of increase is assured in the settlement. As per the rider clause capacity expansion of the plant has not taken place and as per Clause-48 of the Settlement "in the year 2003" is left to be earlier. Hence enhancement of under revised incentive payment from 420% ought to have been given without any ceiling from 1-01-2003 but not paid despite several steps. Under Clause-17(2) periodical increase of production capacity is made by the Management. Though it is common principle of productivity 'that the capacity of workmen to give more production could not be increased beyond the reasonable limit, the Management periodically did that and correspondingly the incentive scheme specifically stated about increased payment of incentive by the Management that the same so far. It is a violation of Article-16 of the Constitution of India. The stand of the Management at conciliatory forum was that increase beyond 420% could not be considered due to ceiling of 420% having been fixed on the Government of India guidelines in the OM dated 10-01-1994 and also bonus and incentive should not increase 35% of the wages and their hands are tied. It is a bald and laconic point. The settlement could never be assailed except in the two circumstances provided under the ID Act. Executive action cannot act against the settlement as held by the Apex Court. Petitioner by letter dated 05-09-2005 informed the Management the excessive percentage of incentive as 627.75% with a request of arrears of Rs. 21971.25 till March, 2005. By letter dated 22-10-2004 rectification of incentive calculation as the existing Clause-17 contained in the 26-04-2001 settlement is rational for the reason that under Clause-17.1 Base Level is fixed for calculation of weighted installed capacity for production of different minerals. Production of monozite has been stopped unilaterally and as such its base level fixed for calculation of its weighted capacity be excluded, weightage for minerals requires revisions from time to time as per varied marked rate prevailing that under Clause-

17.2 for calculation of actual manpower the overtime hours is doubled as per wage paid is double the normal wage which is not justifiable. Overtime double wage is statutory payment not to be linked to production incentive linking production with incentive with bonus shall be dispensed monthly incentive which is restricted to 15% should be increased to 35% irrespective of the production level and the remaining percentage if any shall be carried forward and paid as annual incentive, that Management shall supply quantity raw sand and normal raw material for maintaining fuel capacity production level and the above level of production for the calculation of incentive should not be increased until plant expansion scheme is taken up. Management has not taken any steps in answer to demands. Respondent also in a reply stated that there is no time limit prescribed for revision of incentive. Respondent is taking contradictory stands in the issue. Raising of 5% over the existing base level for the incentive scheme in the 9th Long Term Settlement dated 26-4-2002 already expired on 30-6-2003 requiring revision under Clause-48 of the minutes. OM is dated 10-01-1994 whereas settlement is dated 27-4-2001. Now the Management could not plead otherwise against a conscious commitment made by it which has gained statutory effect and not to be annulled without due course of law. Hence the claim for enhancement.

4. In the Counter Statement, contentions raised briefly read as follows:

Respondent had entered into a settlement dated 5-5-1985 under 12 (3) as per which there is target for achievement of production of minerals. Maximum percentage of incentive was agreed to as 15% per month of the standard wages. Subsequent settlement was entered on 4-01-1999 under Section-18(1) of the ID Act under which Base Level production was agreed to be increased in respect of minerals like menite, rutile, silicon and monazite from 1-07-1982 to 31-02-1999 only and from 1-11-1999 further increase of base level was agreed to also agreeing to revise the calculation of actual manpower and allowing all other conditions in 18(1) Settlement to remain intact. While so, before the settlement dated 4-11-1999 the Respondent office as per communication dated 9-11-1999 suo-moto hand increased the standard salary from Rs. 2,500/- to Rs. 3,500/- from the FY 1993-1994 as a gesture of goodwill and not under a legal liability. Under the Settlement 26-04-2001 as per clause-17.1 it was agreed to increase the base level production of minimum to 5% from the date of settlement. Respondent could not go for capacity expansion of the plant due to various reasons such as mining lease problem, also due to the fact that ceiling of 420% was the maximum percentage fixed under Central Government guidelines. At that time all employees were paid maximum 420% of incentive. Even though production incentive was to be revised there would not be any correspondent increase in production incentive

payment since already maximum was being paid. They are the reasons for not going for the revised production incentive. As per the Long Term Settlement dated 8-12-2005 it was agreed to raise existing base level for incentive scheme by 5% with effect from the date of settlement leaving further increase to be decided on discussion when incentive scheme is revised on capacity expansion. Under the settlement maximum production incentive payment was being continued on the said ceiling of 420%. The maximum ceiling of 420% could not be increased due to the said ceiling fixed by Central Government as per OM dated 10-01-1994. Respondent could not go for capacity expansion also. Hence it was decided to wait for and till the capacity expansion, in the absence of which there is no point in increasing the production incentive scheme since almost all the parameters remain the same. There was only a small marginal change effected in the installed capacity of production of various minerals by increase of 5% by settlement with the Unions. There is no question of violation of 12(3) settlement since the Respondent could not increase the maximum production incentive beyond 420% for the simple reason that Government fixed maximum ceiling of 420% per annum. Due to capacity expansion existing parameters require necessary changes. There is no violation of Article-16 of the Constitution or any unilateral act is there on the part of the Respondent. Respondent/Management is bound to follow the OM instructions of the Government of India. The agreement for increase of ceiling limit was in anticipation of ceiling limit going up. By the settlement dated 8-12-2005 providing, inter-alia, for further increase in the base level for incentive scheme, to be discussed when the incentive scheme is revised for capacity expansion, the Respondent put an end to revision on the increase in annual production incentive beyond 420%. Under the settlement dated 8-12-2005 incentive scheme as a whole will be revised on capacity expansion meaning that revision of incentive scheme includes everything right from production, standard consumption, standard manpower and maximum production ceiling, etc. Annual Production Incentive increase beyond 420% is being policy matter of Government of India. 8-12-2005 settlement is still in force binding all the parties. The claim is to be dismissed.

5. Points for consideration are:

(i) Whether the action of the Management in not enhancing the Annual Incentive Scheme beyond 420% even though the productivity levels have gone up is justified or not?

(ii) To what relief the concerned workmen are entitled?

6. The evidence consists of the oral evidence of WW1 and Ex.W1 to Ex.W12 on the petitioner's side and oral evidence of MW1 and MW2 and Ex. M1 to Ex. M19 on the Respondent's side.

Points (i) & (ii)

7. Heard both sides. Perused the records and documents. Arguments on behalf of the Petitioner Union are that as per the Ex. M4 settlement the Management is bound to honour it and increase the ceiling limit beyond 420% either in 2003 or whenever expansion takes place whichever is earlier. Thereafter there came to be in vogue various settlements including Ex. M 18 in which there is not seen a clause incorporated about the pending dispute between the Unions and the Management leaving the dispute to have its course independently. There is no withdrawal of the ID by the petitioner. The claim for increase of the limit above 420% subsists and is continuing. The settlement being a statutory one is to be honoured by the Management.

8. The contra contentions of the Respondent are that Ex. M 18 settlement is signed by all the Unions including the Petitioner Union who signed it only after the order of reference. Petitioner Union represents only 26.86% of the workmen. Ex. M18 settlement is accepted by 74% of the workmen and they are satisfied with it. There is no expansion of the plant. In no plants elsewhere there is payment of more than 420%. The collective bargaining that has blossomed into Ex. M18 settlement is only to be approved. The claim is not to be sustained merely for ceiling going up beyond 420%.

9. The learned counsel for the Respondent relied on the decision of the Supreme Court in NEW STANDARD ENGINEERING COMPANY LTD. VS. N. L. ABHAYANKAR AND OTHERS in MANU-SC-0277-1978 (AIR-1978-SC-982) where it is held that "settlement of labour disputes by direct negotiation or settlement through collective bargaining is always to be preferred for, as is obvious, it is the best guarantee for industrial peace which is the aim of all legislation for the settlement of labour disputes".

10. In the case of WORKMEN OF GOVERNMENT OF SILK WEAVING FACTORY, MYSORE VS. PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, BANGALORE AND OTHERS in Manu/SC/0303/1973 (AIR-1973-SC-1423) it was held that "on the question (i) where the workmen or a majority of them through their accredited representatives have entered into a settlement of compromise with the Management and (ii) whether the terms of such settlement to the manifest advantage of the workmen, the Tribunal, recorded a finding to the effect that the settlement was between a substantial number of workmen on the one hand and the Management of the factory on the other in respect of not only the disputes pending adjudication but also certain other disputes and that it was a genuine settlement. It has also after a consideration of the evidence recorded a further finding that the terms of the settlement are very fair and just and that the workmen received considerable benefits". In view of these circumstances

the tribunal is of the view that as the main purpose of industrial adjudication is to establish peaceful industrial relationship between the employer and the employee the settlement should be acted upon and an award passed in terms thereof. Accordingly, it accepted the settlement and passed the awards in terms thereof. The High Court exercising jurisdiction under Article-226 accepted the findings of fact recorded by the Tribunal".

11. I find considerable force in the contentions advanced on behalf of the Respondent which gain for themselves a sound edifice in the relevant pleadings, evidence, documents and the rulings relied on and which gave a picturesque description how or why the Management has not been able to enhance Annual Incentive Scheme beyond 420% in spite of Ex. M4 settlement containing a clause to enhance the limit whenever there is capacity expansion of the plant or in the year 2003 whichever is earlier. Admittedly, there is no capacity expansion. The year 2003 also ran out. Still why it is not unjustifiable in not enhancing the ceiling limit beyond 420% finds full and valid delineation in the Counter Statement filed on behalf of the Respondent which explains away the situation with the Respondent or not enhancing the ceiling limit beyond 420%. Therefore, it is only to be held that the action of the Management in not enhancing the Annual Incentive Scheme beyond 420% as demanded by the Petitioner Union is only to be held as justified. So found. The Petitioner Union is not entitled to any relief.

12. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th February, 2011).

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : WW1, Sri P. Vesu Selvaraj
For the 2nd Party/ Management : MW1, Sri J. S. Kumar
MW2, Sri K. Suresh.

Documents Marked :

From the Petitioner's side

Ex. No.	Date	Description
Ex. W1	26-4-2001	12 (3) Settlement - (1-7-1998 to 30-6-2003) with minutes dated 27-4-2001.
Ex. W2	22-10-2004	Demand notice.
Ex. W3	5-9-2005	Request letter of the petitioner.
Ex. W4	5-11-2005	Letter of petitioner to the Assistant Commissioner.
Ex. W5	8-11-2005	Letter of petitioner to the Assistant Commissioner.

Ex. W6	30-11-2005	Dispute raised before the Assistant Labour Commissioner (Central), Madurai in I.D. No. Case No. M. 5/62/2006-A/M.
Ex. W7	8-12-2005	10th Long Term Wages Settlement (1-7-2003 to 30-6-2008) with minutes.
Ex. W8	24-1-2007	Reply from the Management in I.D. No. Case No. M.5/62/2006-A/M.
Ex. W9	22-2-2007	Rejoinder filed by the petitioner.
Ex. W10	11-10-2007	Reply from the I.D.No. Case No. M.5/62/2006-A/M.
Ex. W11	31-12-2007	Failure report of conciliation.
Ex. W12	23-10-2008	Letter from the Department of Public Enterprises under RTI with D E Circular dated 10-12-1997.

From the Management's side:

Ex. No.	Date	Description
Ex. M1	8-5-1999	Memorandum of 12 (1) Settlement entered into between the Management and Union before the Assistant Commissioner of Labour (Central), Chennai.
Ex. M2	10-1-1994	Copy of the Office Memorandum issued by the Government of India.
Ex. M3	4-11-1999	Minutes of Discussion between the Respondent/ Management and the Union Representatives.
Ex. M4	26-4-2001	Memorandum of 12 (3) Settlement read with Section-18 (3) entered into between the Management and Union before the Assistant Commissioner of Labour (Central), Chennai.
Ex. M5	27-4-2001	Minutes of discussion held between the Respondent/ Management and the workmen Union.
Ex. M6	25-6-2004	Copy of result of Secret Ballot conducted at Respondent/ Management.

Ex. M7	8-12-2005	Memorandum of 12 (3) Settlement entered into between the Management and Union before the Assistant Commissioner of Labour (Central), Chennai.	नई दिल्ली, 22 मार्च, 2011 का.आ. 1108—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक्यूमैन इंजिनियरिंग प्रा. लिमिटेड एवं ओ.एन.जी.सी लिमिटेड, मुम्बई के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 30/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-3-2011 को प्राप्त हुआ था।
Ex. M8	30-11-2005	Copy of the dispute raised by the Petitioner Union before Assistant Commissioner of Labour (Central), Chennai.	[सं. एल-30011/34/2004-आई आर (एम)] जोहन तोपनो, अवर सचिव
Ex. M9	24-1-2007	Copy of the reply filed by the Respondent/Management before the Assistant Commissioner of Labour (Central), Madurai.	New Delhi, the 22nd March, 2011
Ex. M10	22-2-2007	Copy of rejoinder filed on behalf of the Petitioner before the Assistant Commissoner of Labour (Central), Madurai.	S.O. 1108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2004) of the Central Government Industrial Tribunal No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Accumen Engineers Pvt. Ltd. & M/s. O.N.G.C. Ltd., Mumbai and their workmen, which was received by the Central Government on 22-3-2011.
Ex. M11	10-11-2007	Copy of the reply to the rejoinder filed by the management before the Assistant Commissoner of Labour (Central), Madurai.	[No. L-30011/34/2004-IR (M)] JOHAN TOPNO, Under Secy.
Ex. M12	19-2-2008/ 28-2-2008	Copy of the letter regarding capacity expansion at Manavalakurichi from IRE, Mumbai.	ANNEXURE
Ex. M13	4-6-2004	Copy of the Minutes of the Meeting.	BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI
Ex. M14	4-6-2004	Copy of the Memorandum of Settlement entered into between the Respondent and Unions.	PRESENT: K. B. KATAKE, Presiding Officer Reference No. CGIT-2/30 of 2004
Ex. M15	4-6-2004	Copy of the Memorandum of Settlement entered into between the Respondent and Unions.	Employers in Relation to the Management of (1) M/s. Accumen Engineers Pvt. Ltd. (Contractor)
Ex. M16	26-5-2009	Copy of the Memorandum of Settlement entered into between the Respondent and Unions.	Shop No.72, Plot No. 51, Sector-15, CBD, Navi Mumbai - 400 614.
Ex. M17	28-8-2009	Copy of the Memorandum of Settlement entered into between the Respondent and Unions.	(2) M/s. ONGC Ltd. (Deleted as per order of Hon'ble High Court).
Ex. M18	4-9-2009	Copy of the Memorandum of Settlement entered into between the Respondent and Unions.	AND Their Workmen
Ex. M19	4-9-2009	Copy of the letter from the Petitioner to the Respondent.	The General Secretary, Raigad Shramik Sanghatana, Kamgar Bhavan, At & PO Bokavira, Tal. Uran, Distt. Raigad (MS).

APPEARANCES:

For the Employer No.1 : No appearance.

For the Workmen : No appearance.

Mumbai, dated the 22nd February, 2011

AWARD

1. The Government of India, Ministry of Labour and Employment by its Order No. L-30011/34/2004-IR (M) dated 7-7-2004 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication :—

“ Whether the industrial dispute raised by Raigad Shramik Sangtana against the management of M/s. Accumen Engineers over reinstatement of 21 workmen justified ? If so, to what relief the workmen concerned are entitled ? ”

2. Both the parties were served with notices. In response to the notice, the second party union has filed its statement of claim at Ex.11. According to the union, the employees under reference are its members. They are working as direct employees of Oil and Natural Gas Commission/Corporation and receiving wages therefrom. They are shown as employees of contractor. However the contractors are sham and bogus. The same workers are working with ONGC since last number of years. Contractors were changed from time to time. It indicates that Contractors M/s. Thakur Mokal & Co. and M/s. J. B. Mhatre who were previous contractors were sham and bogus. The workers are employees of ONGC administration. The 21 workers list annexed were removed from the services by ONGC. They have appointed new workers in their place. Therefore, the union has approached the Assistant Labour Commissioner (C). The Assistant Labour Commissioner called both the parties. However the conciliation proceeding failed and the Assistant Labour Commissioner made a report to Labour and Employment Ministry, Government of India. The Labour and Employment Ministry sent the reference to this Tribunal. The Union prays that the ONGC be directed to reinstate the 21 workers under reference with backwages including prevailing interest of the said backwages.

3. The first party No. 2 ONGC appeared in the matter through its representative. They filed an application Ex-12 with a prayer to delete its name from the reference. My Predecessor by his order dated 5-5-2009 rejected the said application of ONGC. ONGC has approached the Hon'ble High Court by filing Writ Petition No.7860/2009. The Hon'ble High Court by its Order dtd. 28-7-2010 allowed the application of ONGC and name of ONGC is deleted from the reference.

4. The first party No.1 though was duly served remained absent and reference proceeded ex parte against it. In this respect I would like to point out that the union has not made any claim against this first party No.1. Furthermore, second party union also remained absent and failed to file the affidavit of their witness by way of examination in chief.

5. In the case at hand, the second party union has claimed relief mainly against first party No. 2 ONGC. However the Hon'ble High Court allowed to delete the name of first party No. 2 ONGC. The union has not claimed any relief against the contractor first party No.1. Further the second party union did not lead evidence and remained absent since last number of dates. Thus I come to the conclusion that the reference deserves to be rejected. Thus I pass the following order.

ORDER

Reference stands rejected with no order as to cost.

Date: 22-2-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 22 मार्च, 2011

का.आ. 1109.—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर गैस लिमिटेड एवं पारकिंग प्लेसमेंट मुम्बई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकरण न. 2, मुम्बई के पंचाट (संदर्भ संख्या 33/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 22-3-2011 को प्राप्त हुआ था ।

[सं. एल-30011/55/2004-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 22nd March, 2011

S.O. 1109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2004) of the Central Government Industrial Tribunal No.2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mahanagar Gas Ltd. & M/s. Parking Placement Mumbai and their workman, which was received by the Central Government on 22-3-2011.

[No. L-30011/55/2004-JR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

PRESENT

K. B. KATAKE,
Presiding Officer

Reference No. CGIT-2/33 of 2004

Employers in Relation to the Management of (1)
Mahanagar Gas Ltd. (2) M/s. Parking Placement

(1) The Managing Director,
Mahanagar Gas Ltd.,
Pay & Accounts Building,
Bandra Kurla Complex,
Bandra (E)
Mumbai-400 051.

(2) M/s. Parking Placements,
Proprietor Shri Prakash Singh Vohra,
7/89, Old D. N. Nagar,
Apna Bazar, Near Shitala Devi Temple,
Andheri (W),
Mumbai- 400 053.

AND

Their Workmen

The General Secretary,
Petroleum Employees Union,
Tel Rasayan Bhavan,
Tilak Road,
Dadar,
Mumbai-400 014

APPEARANCES:

For the Employer No. (1) : Mr. G. D. Talreja,
Representative

No. (2) : Absent

For the Workmen : Mr. J. H. Sawant,
Advocate.

Mumbai, dated the 6th January, 2011

AWARD

1. The Government of India, Ministry of Labour and Employment by its Order No. L-30011/55/2004-IR (M) dated 16-8-2004 in exercise of the powers conferred by clause (d) of sub- section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication :—

“(1) Whether the contract between M/s. Mahanagar Gas Ltd. and M/s. Parking Placements is sham, bogus and mere camouflage to deprive the contract workmen of the benefits available to the permanent workmen ?

(2) Whether the termination of the services of Shri Rajendra Bhiku Jadhav and 33 others directly or indirectly by M/s. Mahanagar Gas Ltd. is legal, proper and justified ? If not, to what relief these concerned workmen are entitled and from which date and what other directions are necessary in the matter ?”

2. This Tribunal received the reference. Notices were served on both the parties. In response to the notice, the second party union has filed its statement of claim at Ex.10. According to them, since 1997, the management of Mahanagar Gas Ltd. had employed Shri Rajendra Jadhav and 33 other workmen for its permanent nature of work in the capacity as a Survey Assistant, Technician, Driver, Labour and Store Keeper. They were selected for the work by the management. However they were shown workers supplied and engaged through contractor. The said contract

was sham bogus and it was mere camouflage to deprive the workmen of their rights and benefits of permanent workmen. These 34 workers were working under the direct control and supervision of the management. They were receiving wages from time to time directly from the management. The workmen requested the management to confirm them and for the benefits of permanent workmen. However the management has terminated their services w.e.f. 21-6-2000 and 28-6-2000. Their services were terminated unlawfully and by way of victimisation. The management engaged other hands in place of these workers. The workmen are facing unemployment and miseries on that account. These workmen are entitled to be reinstated in the service of management with full back wages and consequential benefits and further entitled to be confirmed upon them the status and privilege of permanent workmen. The management is recruiting outsiders in violation of provisions under Section 33 of I.D. Act and they are liable to be punished under Section 33 of I.D. Act. The union therefore prays that the management be directed to give employment to these workmen in place of the workmen employed by it and they be confirmed with status and privilege of permanent workmen.

3. The first party (No.1) i.e. Mahanagar Gas Ltd. has resisted the statement of claim vide its written statement Ex-15. According to them, the reference is not maintainable as the workmen are not the employees of the first party. They are contract labourers. The workmen are the employees of private contractor M/s. Parking Placements. The said contractor is a necessary party to the claim. There is no master servant relation between the workmen and the first party company. The workers thus are not entitled to the benefit of permanent employees. They deny that they have terminated the services of these workmen and appointed other workers in their place. According to them, as the workmen are not their employee, therefore, question of termination of their services does not arise. So also they cannot claim the benefits of permanent employees as they are not workers of the company. Therefore they pray that the reference be dismissed.

4. In the light of rival pleadings of the parties, issues were framed at Ex-19 and the matter was posted for filing of documents and list of witnesses of the parties. On the next date instead of filing the documents and list of witnesses, the learned advocate appearing for second party filed purshis Ex-20 stating that second party does not want to proceed with the reference. Therefore the reference deserves to be dismissed. Thus the order.

ORDER

The reference is dismissed for want of prosecution.

Date: 6-1-2011

K. B. KATAKE, Presiding Officer

नई दिल्ली, 22 मार्च, 2011

का.आ. 1110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैग्नीज और इंडिया लिमिटेड बालाघाट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या ...162/2000 एवं 69, 70, 71, 72, 74/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2011 को प्राप्त हुआ था।

[सं. एल-27012/3/2000-आई आर(एम),
सं. एल-29012/129/2000-आई आर(एम),
सं. एल-29012/130/2000-आई आर(एम),
सं. एल-29012/133/2000-आई आर(एम),
सं. एल-29012/134/2000-आई आर(एम),
सं. एल-29012/136/2000-आई आर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 22nd March, 2011

S.O. 1110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.162/2000 and 69, 70, 71, 72, 74/2001) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Manganese Ore (India) Ltd. Nagpur and their workman, which was received by the Central Government on 22-3-2011.

[No. L-27012/3/2004-IR (M),
No. L-29012/129/2000-IR (M),
No. L-29012/130/2000-IR (M),
No. L-29012/133/2000-IR (M),
No. L-29012/134/2000-IR (M),
No. L-29012/136/2000-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT JABALPUR

Presiding Officer : Shri Mohd. Shakir Hasan

Case No. CGIT/LC/R/162/2000

Shri Pardeshiram,
S/o Shri Bhagatram Sahoo,
Ex-General Mazdoor,
At & PO Bharveli,
Balaghat

Versus

The Manganese Ore (India) Ltd.,
3, Mount Road Extension,
Sadar, Nagpur

....Management

Case No. CGIT/LC/R/69/2001

Shri Fagnoo,,
S/o Shri Parashadi Sahoo,,
Ex-worker of Bharveli Mine of MOIL,
PO Bharveli, Dt. Balaghat (MP),
Balaghat

....Workman

Versus

The Chairman -Cum-Managing Director,
Manganese Ore (India) Ltd.,
3, Mount Road Extension,
Sadar, Nagpur

....Management

Case No. CGIT/LC/R/70/2001

Shri Hiralal, S/O Soniya,,
Ex- Mazdoor of Bharveli Mine of MOIL,
PO Bharveli, Dt. Balaghat (MP),
Balaghat

....Workman

Versus

The Chairman -Cum-Managing Director,
Manganese Ore (India) Ltd.,
3, Mount Road Extension,
Sadar, Nagpur

....Management

Case No. CGIT/LC/R/71/2001

Shri Baba,
S/o Shri Jaipal
Ex- Mazdoor of Bharveli Mine of MOIL,
PO Bharveli, Dt. Balaghat (MP),
Balaghat

....Workman

Versus

The Chairman -Cum-Managing Director,
Manganese Ore (India) Ltd.,
3, Mount Road Extension,
Sadar, Nagpur

....Management

Case No. CGIT/LC/R/72/2001

Shri Bhaiyalal,
S/o Hetram,
Ex- Worker Bharveli Mine of MOIL,
PO Bharveli, Dt. Balaghat (MP),
Balaghat

....Workman

....Workman

Versus
 The Chairman -Cum-Managing Director,
 Manganese Ore (India) Ltd.,
 3, Mount Road Extension
 Sadar, Nagpur

....Management

Case No. CGIT/LC/R/74/2001

Shri Mangal Singh,
 S/o Shri Shivlal,
 Ex- Worker of Bharveli Mine of MOIL,
 PO Bharveli, Dt. Balaghat (MP),
 Balaghat

....Workman

Versus
 The Chairman -Cum-Managing Director,
 Manganese Ore (India) Ltd.,
 3, Mount Road Extension
 Sadar, Nagpur

....Management

AWARD

Passed on this 15th day of February- 2011

1. (a) The Government of India, Ministry of Labour vide its Notification No. L-27012/3/2000/IR(M) dated 7-9-2000 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the management of Manganese Ore India Ltd., Nagpur in dismissing the services of Shri Pardeshiram S/o Bhagatram Sahoo, General Mazdoor of Balaghat Mine of MOIL from 24-8-84 is justified ? If not, to what relief the concerned workman is entitled ? ”

(b) The Government of India, Ministry of Labour vide its Notification No. L-29012/129/2000/IR(M) dated 30-3-2001 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the management of Dy. Manager (Production), Bharveli Mine of MOIL, P.O. Bharveli, Distt. Balaghat (MP) in dismissing the services of Shri Fagnoo S/o Shri Parashadi Sahoo underground worker of Bharveli Mine of MOIL w.e.f. 4-1-84 is justified ? If not, to what relief the concerned workman is entitled ? ”

(c) The Government of India, Ministry of Labour vide its Notification No. L-29012/130/2000/IR(M) dated 30-3-2001 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the Dy. Manager (Production), Bharveli Mine of MOIL, PO Bharveli, Distt. Balaghat (MP) in dismissing the services of Shri Hiralal, S/o Soniya, underground worker of Bharveli Mine of MOIL

w.e.f. 11-9-83 is justified ? If not, to what relief the concerned workman is entitled to ? ”

(d) The Government of India, Ministry of Labour vide its Notification No. L-29012/133/2000/IR(M) dated 30-3-2001 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the Dy. Manager (Production), Bharveli Mine of MOIL, PO Bharveli, Distt. Balaghat (MP) in dismissing the services of Shri Baba, S/o Jaipal, underground worker of Bharveli Mine of MOIL w.e.f. 12-9-83 is justified ? If not, to what relief the concerned workman is entitled to ? ”

(e) The Government of India, Ministry of Labour vide its Notification No. L-29012/134/2000/IR(M) dated 30-3-2001 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the Dy. Manager (Production), Bharveli Mine of MOIL, PO Bharveli, Distt. Balaghat (MP) in dismissing the services of Shri Bhaiyalal, S/o Hetram, underground worker of Bharveli Mine of MOIL w.e.f. 12-9-83 is justified ? If not, to what relief the concerned workman is entitled to ? ”

(f) The Government of India, Ministry of Labour vide its Notification No. L-29012/136/2000/IR(M) dated 30-3-2001 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the Dy. Manager (Production), Bharveli Mine of MOIL, PO Bharveli, Distt. Balaghat (MP) in dismissing the services of Shri Mangal Singh, S/o Shivlal, underground worker of Bharveli Mine of MOIL w.e.f. 30-8-83 is justified ? If not, to what relief the concerned workman is entitled to ? ”

2. All the above named six references are taken up together as all are inter-connected with each other which are on the common subject matter.

3. In all the references, the workmen appeared through their lawyer but did not file statement of claim for about seven years. Lastly the then Tribunal proceeded the references ex parte against the workmen on 16-7-2008.

4. The management appeared and filed Written Statement alongwith photocopies of documents. The case of the management in short is that one Kankar Munjare formed a Karntikari Mazdoor Mine Parishad and started interfering with the affairs of Balaghat Mine of Manganese Ore (India) Ltd. (in short MOIL). A meeting was organized in front of Mine Manager's office by Shri Munjare and a worker namely Shri Kishan Bopche without permission from Mine's Manager. Shri Kishan Bopche was chargesheeted by the Mine Manager under the Company's Standing Orders. On 27-06-1982 was fixed for hearing in the said enquiry proceeding. But the Enquiry Officer of the said

proceeding was opposed by these workmen alongwith several others including some female labourers. Mine Manager and other officials were gheraoed by them. The SDM and the police also reached at the spot. These workmen and others became riotous and misbehaved with Mines Administration. The Administration warned them and ordered to disperse from the place. Lastly the police was compelled to fire, resulting in death of three persons. Thereafter these persons were chargesheeted. They filed their reply but their reply was not satisfactory and the management initiated departmental proceedings against them. Shri K. M. Tripathi, Senior Industrial Relation Officer was appointed as Enquiry Officer. The workmen appeared in the departmental proceedings. In few proceedings, Shri Kishan Teekaram participated as Defence Assistant and in other proceedings, the workmen opted to defend themselves. The management examined witnesses in the departmental proceedings and they were examined by the Defence Assistant and the workmen. Thereafter the workmen examined their witnesses in support of their defence. They had also adduced documents in the departmental proceedings. After enquiry the Enquiry Officer submitted his report. The Disciplinary Authority after agreeing with the findings of the Enquiry Officer served a show cause notice. The workmen submitted their reply. The Disciplinary Authority after carefully considering the reply and evidence of the department proceeding found that full opportunity was provided to the workmen to defend themselves and there was no violation of natural justice and found that serious misconduct had been proved against them. Thereafter passed the order of dismissal against the workmen. On these grounds, it is submitted that the action of the management is justified and the reference be answered in favour of the management.

5. On the basis of reference and pleadings of the management, the following issues are framed for adjudication—

- I. whether the departmental proceedings conducted by the management against the workmen are legal, valid and proper ?
- II. whether the action of the management in terminating the services of the workmen is justified ?
- III. To what relief, the workmen are entitled ?

6. Issue No. I

In all the references, the workmen appeared through lawyer and subsequently absented. As such the references are proceeded ex parte. Therefore this issue is also taken up finally alongwith other issues.

7. To prove the case, the management has adduced oral and documentary evidence. The management witness

Shri Nitin Pagnis is working presently as Senior Manager (Personnel), MOIL Bhawan, Nagpur. He has supported the case of the management. He has stated that on 27-6-82, the date was fixed for departmental proceeding against one Shri Kishan Bopche where the workman and others formed an unlawful assembly and gheraoed the Mines Manager and other officers. Police and local administration also reached at the spot and tried to disperse the workmen and others. Lastly the police was compelled to fire resulting in death of three persons. He has further stated that departmental proceedings were started against them. They participated in the departmental proceeding and defended themselves. After concluding the proceeding, the Enquiry Officer found them guilty of the charges and submitted enquiry report. The Disciplinary Authority issued showcause to the workmen who gave reply to their showcause. The Disciplinary Authority after considering the entire materials on record found that the serious misconduct were proved and passed the order of dismissal. His evidence clearly shows that full opportunity was given to the workmen and the principle of natural justice was not violated. His evidence is unrebutted. There is no reason to disbelieve his evidence.

8. The management has also filed photocopies of the department proceeding. The record of the departmental proceeding also corroborates that the workmen participated in the proceedings and full opportunity was given to them. Thus it is clear that the departmental proceedings conducted by the management against the workmen are legal, valid and proper. This issue is accordingly decided.

9. Issue No. II and III

Considering the discussion made above and on perusal of the entire enquiry proceedings, it is clear that the finding of the Enquiry Officer is not perverse and the misconduct is proved against the workmen. I do not find any reason to interfere in the order of punishment awarded by the management. I find that the action of the management is justified. Accordingly these issues are decided in favour of the management and references are answered.

10. In the result, a common award is passed without any order to costs.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 24 मार्च, 2011

का.आ. 1111.—ऑद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सालागानकर माइन्स इन्डस्ट्रीज के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण/श्रम न्यायालय, 2 मुम्बई के पंचाट (संदर्भ संख्या 71/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-3-2011 को प्राप्त हुआ था।

[सं. एल-29011/5/2009-आई आर(एम)]

जौहन तोपनो, अवर सचिव

New Delhi, the 24th March, 2011

S.O. 1111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 71/2009) of the Central Government Industrial Tribunal /Labour Court No. 2, Mumbai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Salgaoncar, Mining Industries Pvt. Ltd. and their workmen, which was received by the Central Government on 24-3-2011.

[No. L-29011/5/2009-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**
PRESENT : K. B. KATAKE, Presiding Officer
Reference No. CGIT-2/71 of 2009
**EMPLOYERS IN RELATION TO THE
MANAGEMENT OF MS. SALGAONCAR MINING
INDUSTRIES
PVT. LTD.**

The Managing Director,
M/s. Salgaoncar Mining Industries Pvt. Ltd.,
Salgaoncar Chambers,
Margao,
Goa 403 601.

AND

Their Workmen

The General Secretary,
United Mine Workers Union,
G-5, Macado Apartment,
Tisw Ponda,
Goa.

APPEARANCES:

For the Employer : No appearance.
For the Workmen : Mr. P. Gaonkar,
Representative.

Camp: Goa, dated the 19th January 2011.

AWARD

The Government of India, Ministry of Labour and Employment by its Order No. L-29011/5/2009-IR (M), dated 1-09-2009 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the

following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Salgaoncar Mining Industries Pvt. Ltd. in not paying earned wages for the month of November 2008 and Bonus for the year 2006-2007 & 2007-2008 to their workmen employed at Tatodi Mine/Beneficiation Plant and Vegler Mine is legal and justified? To what relief the workmen are entitled for?”

2. After receipt of reference, both the parties were served with notices. In response to the notice, the second party union has filed its statement of claim at Ex-5. According to it, the workers are working in the said mines and beneficiation plant since last 20 years. Wages of the workers were not paid in time. They were not given benefit under P.F. Act as well as under Payment of Wages Act, Bonus, Mines Act etc. They continued to violate the provisions of labour law therefore all the workers have decided to join the union. All workers in the reference are in continuous service for last several years. They were not paid bonus. On receipt of letter of formation of union, the management had started harassing the workers. They were asked to resign from the union otherwise threatened to close down the establishment. They refused to allow all the workers to join their duties since 5-1-2009. The union has raised dispute in respect of non-payment of earned wages of October and bonus for the years 2006-07 & 2007-08.

3. The dispute was raised before ALC (C). The ALC (C) made an attempt for conciliation. However management refused to attend the proceeding, hence conciliation ended in failure and Government has sent the reference to this Tribunal. The union claims that as per provisions of Bonus Act they are entitled to get 20% bonus. The workers are also entitled to earned wages with 12% interest. Therefore they pray for award to that effect.

4. The first party M/s. Salgaoncar Mining Industry Pvt. Ltd. though was duly served it remained absent. Therefore reference proceeded ex parte. Following are the issues for my determination. I record my findings thereon for the reasons to follow:

Issues	Findings
(i) Whether the workmen of Salgaoncar Mining Industries Pvt. Ltd are entitled to earned wages for the month of November 2008?	Yes
(ii) Whether the workmen of Salgaoncar Mining Industries Pvt. Ltd. are entitled to bonus for the years 2006-07 & 2007-08?	Yes

(iii) What relief the workmen are entitled to?	As per final order.
(iv) What order ?	As per final order.

Reasons**Issues no. 1, 2 & 3:—**

5. Though the first party company was duly served with the notice of this reference, it did not appear or file its written statement, therefore, ex-parte order came to be passed against the first party. As averments in the statement of claim are not denied by filing pleading by the first party, therefore under order 8 Rule 5 CPC, it amounts to admission. Further more on behalf of second party workmen, evidence was led on affidavit by one Govind Gavankar. He supported the claim of the second party union by his affidavit at Ex-9. He was not cross-examined and the contents and allegations in his affidavit are not denied or challenged by the first party by cross-examining this witness.

6. In short the claim of the second party union is neither denied nor contested by the first party company. It amounts to admission. In the circumstances, no further discussion is necessary to hold that the first party company has not paid the earned wages for the month of November 2008 to which the workmen were entitled to. According to the union, the workmen were also entitled to the bonus for the years 2006-07 & 2007-08 as contemplated in Payment of Bonus Act. Therefore I hold that the workmen are entitled to get both the reliefs prayed for as they are unchallenged and uncontested. Accordingly, affirmative conclusion can be arrived at in respect of issues nos. 1, 2 & 3. Thus I proceed to pass the following order:

ORDER

- (i) The reference is allowed with no order as to cost.
- (ii) The first party company is directed to pay earned wages to its workers for the month of November 2008.
- (iii) The first party company is also directed to pay to the workers under reference the bonus for the year 2006-07 & 2007-08 as per the provisions of Payment of Bonus Act.

Date: 19-01-2011

Camp: Goa

K. B. KATAKE, Presiding Officer

नई दिल्ली, 24 मार्च, 2011

का.आ. 1112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनाइटेड इंडिया इन्स्यूरेन्स कम्पनी लिमिटेड, चेन्नई के प्रबंधतत्र के संबंध

नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, पुणे के पंचांत (संदर्भ संख्या 42/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-3-2011 को प्राप्त हुआ था।

[सं. एल-17012/1/2005-आई आर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24 March, 2011

S.O. 1112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 42/2005) of the Central Government Industrial Tribunal /Labour Court, Pune, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United India Insurance Co. Ltd. and their workmen, which was received by the Central Government on 24-3-2011.

[No. L-17012/1/2005-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE INDUSTRIAL TRIBUNAL MAHARASHTRA
AT PUNE****Reference (IT) No. 42 of 2005**

The Chairman & Managing Director,
United India Insurance Co. Ltd.,
No. 24, Whites Road,
Madras, Chennai-600 014.

... First Party

AND

Shri V.N. Chaware,
Flat No. D-1, Disney Park,
Wanowarie, Pune-411 040.

... Second Party

In the matter of reinstatement

CORAM : M.G. CHOUDHARY, Presiding Officer.

APPEARANCES : Shri Gaikwad, Advocate for first party.
None for second party.

AWARD

(11-02-2011)

The Government of India through Ministry of Labour in exercise of powers conferred under Sec-10 (1)(d) R/w. Sub-sec-2(A) of the Industrial Disputes Act, 1947 referred the industrial dispute between abovenamed parties for its adjudication by this Tribunal. The dispute which is referred by the reference order dtd. 28-10-2005 mentioned in the schedule reads as under :—

"Whether the action of the management of United Insurance Co. Ltd. in not responding to the request of Shri V.N. Chaware for pensionary benefits and

acting in haste to relieve him w.e.f 9-4-03 under SVRS Scheme without pension is legal and justified? If not, to what relief the concerned workman is entitled?"

2. The second party workman in response to notice of this Tribunal filed the statement of claim in the matter at Exh. U-3 with its amended copy at Exh. U-10 in which it is contended by the second party workman that, second party was employed with the first party from 1-1-85 at their Pune office and he worked honestly and efficiently as a Development Officer with the first party. According to the second party workman as a Development Officer he was performing duties of procuring insurance business, recruiting new agents, training them in field marketing, co-coordinating with the insured and the Insurance company which entailed extensive field work during regular office time of 10.00 am to 5.30 pm and even after that. According to the second party workman, he was informed on 14-1-2003 that Special Voluntary Retirement Package (hereinafter called as SVRP) with pensionary benefits under the General Insurance (Employees) Pension Scheme, 1995 is being introduced for those who wish to avail of the same. According to the second party workman after perusing the existing provisions of General Insurance (Employees) Pension Scheme, 1995 and self service record, he was confirmed to be eligible for the pension benefits, therefore following the provisions of law the second party workman opted for the above said SVRP and applied under the said scheme on 15-1-3. According to the second party workman, the first party vide notification dtd. 17-2-2003 clarified that the stipulated period of 60 days of the commencement of the scheme completes on 3-3-2003 and that all application were to be received on or before 3-3-2003 and also contained a clarification in clause-II that actually pension will not be available to those Development officers who had not completed 20 years of services and are opting for the Special Voluntary Retirement Package thereby raising the qualifying age for eligibility for pension from 10 years to 20 years. According to the second party workman, the said notification dtd. 17-2-2003 which has affected the change in the pre-existing services condition incorporated in provisions of the General Insurance (Employees) Pension Scheme, 1995. According to the second party workman, the said notification is not binding on him, the first party has not given notice of change before effecting the change. According to the second party workman, thereafter he withdrew the application for SVRP by withdrawal letter dtd. 3-3-2003, which was last date of SVRP, still according to the second party workman the first party by letter dtd. 9-4-2003 relieved the second party from services. According to the second party workman, the first party knowingly, deliberately and with undue haste forcibly relieved the second party fully ignoring the second party's timely application for withdrawal from the SVRP, thus according to the second party his demand be allowed.

3. The first party in his written statement at Exh. C-6 read with additional written statement at Exh. C-13 contended that this statement of claim filed by the second party is not true, legal and correct. According to the first party the Industrial Tribunal have no jurisdiction to deal with the matters pertaining to the employees of Insurance companies. According to first party, the second party was performing supervisory duties as such the present reference is not tenable. According to the first party, Special Voluntary Retirement Package i.e. SVRP was opted by the second party, which is a special mode of retirement offered to Development Officer, consequent upon the notification of the scheme by Ministry during January, 2003 the first party offered benefits under the scheme which clearly stipulated in the notification. According to the first party, subject to the other conditions contained in General Insurance (Employees) Pension Scheme, 1995, the employee who has rendered a minimum 10 years of service in the corporation or a company on the date of retirement shall qualify for pension. According to first party, the provisions of voluntary retirement scheme are specified in clause no.30 of chapter 5 of classes of pension and employees who have completed 20 years of qualifying service is entitled for pension of voluntary retirement. According to the first party, the second party opted for the same SVRP and once the option is given he is not permitted to withdraw the same as per said scheme. According to first party, he is not a workman and functions of second party were supervisory in nature. The first party does not admit the alleged dispute is between employer-employee as averred, and lastly requested to dismiss the reference.

4. The following preliminary issues are framed in the matter at Exh.06 by my Ld. Predecessor which arises for my determination—

- (1) Whether the reference as framed is tenable under law?
- (2) Whether the party no.2 is a workman as defined under the I.D. Act ?
- (3) What order & costs?

My findings to above preliminary issues for the reasons recorded below are as under.—

- (1) No;
- (2) No;
- (3) Reference stands rejected, as per order below.

REASONS

5. Both the parties have produced the documents on record i.e. appointment letter, letter of Development officer, notification, etc.

The second party workman in order to prove his case deposited in the at Exh.U-18 and in his examination in chief by way of affidavit he has stated the same thing as

per stand of the second party in the statement of claim. In para-3 of his affidavit, he has stated that he has record of eighteen years of performance as Development officer performing the duties of procuring insurance business, recruiting new agents training them in field marketing, coordinating with the insured and the insurance company which entitled extensive field work during regular office time of 10 am to 5.30 pm and even after that. In cross-examination he has stated that he has not filed any document before the court regarding his age & educational qualification. Questions were put to him about his joining with the first party, his post, training, etc. He has admitted that, in the appointment letter target was given which he was required to achieve during probation period. He has stated that it was not only his duty to procure more business for the first party but he was also required to recruit agents and procuring the premium of insurance. He has stated that development officer used to guide the agents for collecting the business. He has stated that duty of development officer is to give technical support to the agent in his work. He has admitted that being a Development officer he was recommending for recruitment of the agents and further admitted that it is the duty of development officer to give the premium proposal to the party. He has admitted that the agents are subordinate to the development officers. He has admitted that, the Insurance company can directly terminate the services of the development officers for non-performance. He has denied other suggestions given to him in the cross-examination.

The first party has examined Mr. Akhilesh Kumar Agarwal at Exh.C-31 and in his examination in chief by way of affidavit stated more or less the same thing as per stand of the first party in written statement and additional written statement. In addition to that he has stated that the second party is not a workman, the functions of the second party were of supervisory in nature, the main function was of canvassing and developing of the insurance business. He has stated that the duty of second party was to recruit, train, direct and control the agents under him. He has stated that the duties and functions of second party was to introduce, develop and give service to the general insurance business in the area under his jurisdiction. The witness in his affidavit at para-21 given the names of eight agents recruited by the insurance company on the recommendations of the second party. In cross-examination he has stated that he was working as Regional Manager. He has stated that second party was full time employee of the first party as development officer and was working in marketing department of the first party. He has admitted that the Insurance company is involved in the sale of policy business. He has stated that second party was mainly doing the work of canvassing by selling the policy for the development of general insurance. Questions were put to him about monetary benefits given to the employees. He has stated that agent is not the employee of the first party and he only gets the commission for his

work. Questions were put to him about pension scheme and he has denied other suggestions given to him in cross-examination.

6. It appears that the second party workman remained absent for long period. Further it appears that several notices were issued to the second party, but those were returned with remarks "unserved". As the matter is old, evidence of both the parties is over the Advocate for the first party has filed the written synopsis of the argument. I have heard the argument of Advocate for the first party at length and in support of his argument he has also relied on the case law reported in 2010-DGLS(Soft)-196. New India Assurance Co. Ltd. V/s. Raghuvir Singh Narang & Anr; and MANU-KE-0142-2001 Purandaran V/s. Hindustan Lever Ltd.

Considering the ratio of case law and considering the facts of the present matter I am deciding this reference.

7. It is contention of the second party workman that he was working as Development officer with the first party. The first party introduced special VRS scheme on 14-1-03 and second party opted for SVRP. However according to the second party, subsequently the first party by notification dtd. 17-2-03 introduced some changes, as such he withdrawn the option given for special VRS scheme. The first party without considering the same relieved him from services by letter dtd. 9-4-03 without giving him pensionary benefits. Thus according to the second party being aggrieved by the action of the first party he raised an industrial dispute which was ultimately resulted in the present reference which was referred by appropriate government for its adjudication to this Tribunal. The demand raised by the second party workman is referred above. The first party in the written statement taken a stand that the second party is not a workman and he was mainly doing the supervisory nature of work. The second party in his evidence categorically admitted that he was doing the work of development officer and for that purpose agents were appointed and the names of agents were recommended by him and that agents were working under him as per his instructions. He has further admitted that he was required to recruit the agents and procuring the premium of insurance. He has also admitted that as a development officer he has look after to increase the business of the first party by canvassing the policy of the first party. The witness of the first party Mr. Agarwal in his evidence at Exh.C-31 given the names of eight agents to whom the second party recommended and recruited as agents. He has also stated that it was the duty of second party to recruit, train, direct and control the agents under him and he has to introduce, develop and give service to the general insurance business in the area under his jurisdiction. According to the first party the second party was performing supervisory nature of duties. The duty list of second party workman i.e. duty list of development officer is produced on record.

After assessing the entire evidence on record in my considered view the nature of duties of the second party

workman performed by him as development officer cannot be termed as clerical, skilled, unskilled, technical as defined under the definition of workman. But I find that being the development officer the second party workman was required to take independent decision in relation to the business of the first party which was binding on the first party. It is admitted position that agents were working under him. It is also admitted position that recommendation and recruitment of the agents were made by the second party. Thus after assessing the oral and documentary evidence of both the parties and on the basis of pleadings available on record it is clear to me that the nature of duties performed by the second party workman as a development officer cannot be termed as a workman and cannot fall within the definition U/s.2(s) of the I.D. Act.

8. Apart from the above observations it is also contention of the first party in this matter raised in the written argument that the second party opted for special voluntary retirement package and he was relieved by accepting his option for accepting the SVRP. As such according to the first party he cannot be called as a workman within the meaning of Sec-2(s) of the I.D. Act, and in support of this Advocate for first party has relied on the case law referred above. In my opinion after considering the definition of workman U/s.2(s) of the I.D. Act, it is clear that the workmen who opted for VRS cannot be termed as workman within the meaning of Sec-2(s) of the I.D. Act, as workman who opted for VRS is not included in definition of Sec-2(s) of the I.D. Act as he cannot be called as dismissed or discharge from service.

After assessing the evidence on record and as observed above it is clear that the second party is not a workman as defined U/s. 2(s) of the I.D. Act, as such the reference itself is not maintainable. In view of this its clear that reference is liable to be rejected, hence I answer Issue No. 1, 2 & 3 accordingly and proceed to pass the following award.

AWARD

1. The Reference (IT) No.42/05 stands rejected.
2. No order as to costs.
3. Copies of this award be sent to Government for necessary action.

M. G. CHOUDHARY, Presiding Officer

Pune:

Date: 11-02-2011.

नई दिल्ली, 24 मार्च, 2011

का.आ. 1113.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाराष्ट्र स्टेट

माइनिंग कारपौरेशन लिमिटेड, नागपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 36/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-3-2011 को प्राप्त हुआ था।

[सं. एल-29011/2/84-डी-III बी-आई आर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24th March, 2011

S.O. 1113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 36/2003) of the Central Government Industrial Tribunal /Labour Court Nagpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Maharashtra State Mining Corporation Ltd. Nagpur and their workman, which was received by the Central Government on 24-3-2011.

[No. L-29011/2/84-DIII(B)-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/36/2003

Date: 25-02-2011.

Party No.1 : The Managing Director,
Maharashtra State Mining
Corporation Ltd., 5, Abhyankar Road,
Nagpur.

Versus

Party No. 2 : The Vice-President,
Maharashtra Rajya Khadan
Karamchari Sangh, Parvana Bhavan,
44, Kingsway,
Nagpur.

AWARD

(Dated: 25th February, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Maharashtra State Mining Corporation Limited, Nagpur and their workmen for adjudication to the Central Government Industrial Tribunal, Jabalpur, as per

letter No.L-29011(2)/84-D.III(B) dated 18-10-1984, with the following schedule :—

“Whether the action of the management of Maharashtra State Mining Corporation Ltd., Nagpur in closing down their Chandori Kynite Mine with effect from 1-7-1983 without following the provisions of Section 25FFA of the Industrial Disputes Act, 1947 and neither re-opening the same with effect from 1-10-83 nor paying compensation to the workers concerned for the period of closure is justified If not, to what relief are the workers' concerned entitled?”

Subsequently, the reference was transferred to this Tribunal for disposal in accordance with law.

2. Being noticed, the Vide-President, Maharashtra Rajya Khadan Karmachari Sangha (“the Party No.2” in short) filed the statement of claim and the management of Maharashtra State Mining Corporation Ltd., (“the Party No. 1” in short) filed its written statement.

The case of the Party No.2 as projected in the statement of claim is that the Party No.1 closed down its “Chandori Kyanite Mine” situated at near village Chandori in the district of Bhandara, as per the order dated 29-6-1983, with effect from 1-7-1983 and as per the said order, the reason for such closure was due to the incept of rainy season. The further case of the Party No. 2 is that in the notice of closure, the Party No.1 had also intimated the workers to take note of the fact that the mine would be reopened from 1-10-1983 and as such, all the workmen reported for duty on 1-10-1983, but the Party No. 1 neither opened the mine nor gave any notice regarding further closure of the mine, so the workmen started reporting for duty thereafter till 10-1-1984, on which date, it was intimated by the Party No. 1, about it having of no lease to operate the mine, so, the matter was taken up by it with the Asstt. Labour Commissioner, Nagpur vide representation dated 23-1-1984, but the conciliation proceeding failed on 10-1-1984, as no understanding could be arrived at between the parties. The Party No. 2 has prayed for an order for payment of notice pay, retrenchment compensation and wages from 1-10-1983 to 10-1-1984 and compensation for loss of employment.

3. The Party No. 1 refuting the allegations made in the statement of claim has pleaded in its written statement inter-alia that Chandori Mines was closed with effect from 1-7-1983, due to withdrawal of the ad-hoc permission granted by the Government of Maharashtra for mining operation, as the Government of India was against the grant of such ad-hoc permission and withdrawal of the ad-hoc permission was intimated to it as per the letter dated 6-7-1983 of the Assistant Secretary to Government of Maharashtra, Ministry of Industry, Energy and that mining operations were carried out for 6 to 7 months only and the workers employed also did not complete 240 days of work in a year and as the Government did not give

permission, question of reopening of the same did not arise and the services of the workmen were terminated on 30-6-1983 and due to rain and as well as, as there was no permission from the Government of Maharashtra for mining operation, the mine in question was closed down and the workers did not report for duty on 1-10-1983 and every day thereafter, as they were well aware of the fact that their employment was seasonal in nature and depending upon the permission from Government of Maharashtra. However, the Party No. 1 has admitted in the written statement that the matter was seized in conciliation by the ALC (Central), Nagpur and it was submitted by the Party No. 1 that it did not have permission of lease for mining operation at Chandori Mine and the Mine would be reopened in case of grant of lease by the Government of Maharashtra. It is further averred by the Party No. 1 that as lease was not granted by the Government, it could not start the mining operation and employed the workers and as the services of the workmen were terminated on 30-6-1983, question of giving any notice under Section 25 FFF did not arise and the communication of the government was received on 6-7-1983, after the termination of the services of the workers and on 10-1-1984, the said fact was intimated to the ALC, in response to the letter of the ALC dated 12-12-1983 and as nature of the work of the workmen was seasonal and the workers had not completed 240 days of work in one year, they are not entitled for retrenchment compensation as per Section 25 FFF of the I.D. Act.

4. In support of their respective claims, both the parties adduced oral evidence, besides relying on documents. On behalf of the Party No.2, one Raghunath Mayaram Kawle has been examined as a witness, whereas, one Virendra Singh Verma, an Assistant Manager of Party No. 1 was examined as a witness on behalf of the Party No. 1. The witness examined on behalf of the Party No.2 has stated that he was working as an unskilled worker in Chandori Kyanite Mines from 1977 to 1983 and due to rainy season, the management closed down the mine w. e. f. 1-7-1983, by giving two days notice of closure and intimating further to open the same on 1-10-1983 and the mine was not re-opened on 1-10-1983 but all the workers were reporting for duty from 1-10-83 to 31-1-84 and the management did not pay the workers any compensation, retrenchment compensation and notice pay.

On the other hand, the witness examined on behalf of the management has stated that the mine was 30-6-86, due to withdrawal of ad-hoc permission granted close down on by Government of Maharashtra for mining operation and the mine in question used to operate for 5 to 6 months in a year and during the rainy season, the mine was not in operation and used to be temporarily closed down and was normally reopened from October of each year up to June of next year and workers were only engaged for the said period and the workers did not report for duty on 1-10-83, as they were well aware of the fact that the employment was dependent upon the permission from the

Government of Maharashtra and the provision of Section 25 FFF of the Industrial Disputes Act do not attract in this case and no worker had completed 240 days of work and the reopening of the mine after 30-6-83 was not possible, due to want of permission from Government of Maharashtra. The witness has also proved the copy of the abstract of Form-G register maintained by the Party No. 1 as per the provision of Mine Act, which shows the days of the work performed by each employee and also the copy of the wage sheet of the workers showing the number of workers on roll as on 30-6-83.

5. For better appreciation of the dispute between the parties, I think it proper to mention the provision of section 25 FFF, which reads as follows :

“Compensation to workmen in case of closing down of undertakings”

1. Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 22 F, as if the workman had been retrenched :

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of employer, the compensation to be paid to the workman under clause b of Section 25 F shall not exceed his average pay of for three months.....

(explanation: an undertaking which is closed down by reason nearly of—

- (i) Financial difficulties (including financial losses), : or
- (ii) Accumulation of undisposed of stocks, : or
- (iii) The expiry of the period of lease or license granted to it or
- (iv) In case where the undertaking is engaged in mining operation, exhaustion of the mineral in the area in which operations are carried out,

shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

It is clear from the above provisions that to get compensation under Section 25 FFF, the workman has to prove that he had been in continuous service for not less than one year in that undertaking immediately before such closure.

Section 25 B of the Act provides the definition of continuous service and according to that definition, a

workman shall be said to be in continuous service for one year if during a period of 12 calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than 190 days in the case of the workman employed below ground in a mine and 240 days in any other case.

6. In this case in hand, the statement of claim does not show the number or name of the workmen working with the Party No. 1. There is also nothing on record as to whether the workmen were working below ground in a mine or on surface. There is also nothing on record to show that the workmen reported for duty on 1-10-1983. It is also found from the record that the mine in question was operating for a temporary period in each year and each year, the same was remaining close from 1st July till the end of October. It is also found from the record that the mine was closed from 1st July, 1993 by the management as per notice given on 29-6-1983, with intimation of reopening of the mine in question from 1st October, 1983. It is also found from the record that the Government of Maharashtra did not give permission for operation of the mine, as per letter dated 6-7-1983. It is also found from the documents that none of the workers had completed either 240 days of work or even 190 days of work preceding the 12 months from 30-6-83 and as such, the workmen are not entitled for any compensation under section 25 FFF of the Industrial Disputes Act. There is also no reliable evidence on record to show that the workers reported for duty on 1st October, 1983 and thereafter till 10-1-1984 and as such, they are also not entitled for wages from 1-10-83 to 10.1.84. Hence, it is ordered :

ORDER

“The action of the management of Maharashtra State Mining Corporation Ltd., Nagpur in closing down their Chandori Kynite Mine with effect from 1-7-1983 without following the provisions of Section 25FFA of the Industrial Disputes Act, 1947 and neither re-opening the same with effect from 1-10-83 nor paying compensation to the workers concerned for the period of closure is justified. The workers are not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 24 मार्च, 2011

का.आ. 1114.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बिहार स्टेट मिनरल डब्लिपमेन्ट कोरपोरेशन लिमिटेड रांची के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद के पंचाट (संदर्भ संख्या 50/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-3-2011 को प्राप्त हुआ था।

[सं. एल-29012/12/96-आई आर(एम)]

जोहन तोपने, अवर सचिव

New Delhi, the 24th March, 2011

S.O. 1114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 50/96) of the Central Government Industrial Tribunal / Labour Court Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bihar State Mineral Development Corporation Ltd., Ranchi and their workman, which was received by the Central Government on 24-3-2011.

[No. L-29012/14/96-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

In the matter of a reference U/s. 10(1) (d) (2A) of I.D. Act.

Reference No. 50 of 1996

Parties : Employers in relation to the management of M/s. Bihar State Mineral Development Corporation Ltd., Ranchi.

AND

Their Workmen

PRESENT : Shri H. M. SINGH, Presiding Officer

APPEARANCES :

For the Employers : Shri H. Nath, Advocate.
For the Workman : Shri D. Mukherjee, Advocate.
State : Jharkhand : Industry : Mineral.

dated the 14-3-2011

AWARD

By Order No. L-29012/14/96-IR (Misc.) dated 12-8-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s. Bihar State Mineral Development Corporation Ltd., Ranchi in terminating the services of Sh. Kamleshwari Thakur is legal and justified ? If not to what relief the workman is entitled to ?”

2. The case of the concerned workman is that he was originally appointed against permanent vacancy after holding interview and test by the management of Bihar State Mineral Development Corporation on 11-3-91 as Shot Firer. After a lapse of three months the management started paying the concerned workman treating him as daily rated workman. He protested against the illegal and arbitrary change of service condition but without any effect. Due to

poverty and unemployment he was allowed the illegal and arbitrary action of the management and started working as a daily rated workman regularly and continuously and as such he has put in more than 190/240 days attendance in each calendar year. Management issued him a letter dated 4-2-92 wherein and whereby the management threatened him to terminate his service on the alleged ground of illegal appointment. Thereafter the concerned workman was stopped from service w.e.f. August, 1993. Before stopping of the concerned workman from service mandatory provision of principles of natural justice was not followed. Before termination of service he was not given compensation. Thereafter an industrial dispute was raised before A.L.C. (C) Patna, which ended in failure. The Govt. of India, Ministry of Labour has referred the dispute for adjudication to this Tribunal. It has been submitted that the action of the management in terminating the service of the concerned workman was neither legal nor justified, and also against the mandatory provisions of section 25 F of the I.D. Act.

It has been prayed that this Hon'ble Tribunal be pleased to answer the reference in favour of the workman by directing the management to reinstate him with full back wages.

3. The case of the management is that the concerned workman was appointed for three months by the General Manager (T) of the Corporation on ad-hoc basis. The appointment of the concerned workman was irregular for non-compliance of the norms and procedure of the Employment Exchange Act and he was asked to work on daily wages and not on fixed scale. Employers were corresponding with the Local Employment Exchange for sending name of the candidates for filling up the posts. As the local people raised objection regarding recruitment of outsiders, name have been called from Local Employment Exchange because for making regular employment. In the meeting of the Board of Directors of the company, cases of irregular appointees were examined and it was found that the appointment of the concerned workman was illegal and irregular. Thereafter notice was issued to the workman vide memo dated 4-2-92 terminating his service. In view of the facts stated above the termination of the services of the concerned workman was legal and justified.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management has produced MW-1, Gopal Saran Singh, and proved documents as Exts. M-1 to M-4. Management also examined Sri Amarnath Singh as MW-2.

The concerned workman examined himself as WW-1, who proved documents as Exts. W-1 to W-3.

6. Main argument advanced on behalf of the concerned workman is that he was appointed by the management and he was working as shot-firer and his service has been terminated without enquiry. Management

also started to take work from him on daily rate basis reducing his pay. It has also been argued that vacancy of shot-firer exists.

7. The management's counsel argued that with complying the provision of the Employment Exchange (compulsory) Notification of Vacancy Act the concerned workman was appointed and his appointment was illegal, so his service was terminated.

In his respect the management has filed Ext.M-2 which shows that the concerned workman was appointed as ad-hoc basis on daily rated wage. As per Ext. M-1 the concerned workman was appointed as Shot Firer in the pay scale of Rs. 425-10-605. As per Ext.M-3 his service was terminated only on the ground that he has been appointed without following rules and regulations and Ext.M-4 also shows that his service has been terminated with following the procedure of any enquiry.

In this respect management's paper Ext.W-2 is very much material which shows that a letter has been written by the Mines Agent to G.M. (T) stating that the concerned workman's salary cannot be reduced. Ext. W-3 shows that the pay scale of the concerned workman has been reduced, and Ext. W-1 is certificate issued by Mines Agent of the management regarding good conduct of the concerned workman. Two posts of Short Firers were advertised one post for general and one for S.C. as per paper filed and regarding Employment Exchange, it was written to the Employment Exchange and the Employment Officer, Bokaro wrote letter to the management to call any person and appoint directly and only send result of selection. This shows that for this post Employment Officer informed the management to directly call candidate and appoint and only inform them the name of appointee, though the name was called as per letter dated 16-3-90 by General Manager to Employment Exchange vide letter No. 1156.

In this respect the evidence of management's witness is very much material. MW-1 stated in cross-examination that coal is raised through blasting. For blasting there is requirement of short-firer. The job of shot-firer is of permanent nature. Again at page 2 stated that those documents are available in the Headquarters so they could not be filed. The mines remain under the charge of Agent/Manager. The certificate issued by A.K. Biswas to the concerned workman is Ext.W-1. The letter which has been written by L.B. Sahu addressed to the Headquarters dated 11-10-91, Ext.W-2 has been proved. The statement of C.M.P.F. account in respect of the concerned workman is marked Ext. W-3. Attendance Register was also maintained. I have seen the Attendance Register of the concerned workman and the same has been sent to the Headquarters. Attendance Registered will show many days the concerned workman has worked during the period 1991 to 1992. No chargesheet was issued to the concerned workman before this termination. No compensation was given to the concerned workman before his stoppage from work.

MW-2, Amarnath Singh, also stated in cross-examination that I know that Form 'B' Register is maintained under Section 48 of the Mines Act. It remains under the custody of the Mines Manager/Agent. Gopal Sharma's statement is correct that Form B Register was sent to the Headquarter. I cannot say if the name of the concerned workman was sponsored from the Employment Exchange and subsequently he was interviewed and then he was appointed.

The statement of the management's witness show that the concerned workman's service was terminated without compliance of Sec. 25-F of the I.D.Act and even no enquiry was conducted before termination of service and his pay was reduced illegally.

8. Management referred 2007 (4) J.C.R. 101(SC) in which Hon'ble Supreme Court laid down that under Art. 14 & 16 of the constitution of India, equality clause contained in, must be given primacy. No policy decision can be taken in terms of Article 77 or Article 162 of the constitution which would run contrary to the Constitutional or statutory schemes.

Management's also referred 2010(2) J.C.R. 36 (Jhr.) in which Hon'ble High Court laid down that for regularisation of service on the post of clerk-cum-typist refused. No material to establish appointment was made after following due process of making public appointment, either temporary, contractual, casual, daily wage or adhoc, High Court cannot direct to absorb or regularise the services of such appointee. No interference warranted.

9. In the present the concerned workman was appointed on the pay scale and worked from 11-3-91 to August 1993. But no attendance register has been filed by the management to show how many years he has worked. His service was terminated without any enquiry. No compensation was paid to him. His salary has been reduced without compliance of Sec.9-A of the I.D. Act. Even there is no shot-firer though the management had written letter to Headquarters and also given good certificate in favour of the concerned workmen. No material was shown that he was appointed illegally before termination of service by the management.

10. Considering the above facts and circumstances the action of the management in terminating the service of the concerned workman is not justified and hence he is entitled to be reinstated in service with 50% back wages with continuity of service.

11. Accordingly, I render following award-

The action of the management of M/s. Bihar State Mineral Development Corporation Ltd., Ranchi in terminating the services of Sh. Kamleshwari Thakur is not justified and he is entitled to be reinstated in service with 50% back wages with continuity of service. The management is directed to implement the award within 30 days from the date of publication of the award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 24 मार्च, 2011

का.आ. 1115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राउरकेला स्टील प्लांट राउरकेला के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 50/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2011 को प्राप्त हुआ था।

[सं. एल-29012/19/98-आई आर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 24th March, 2011

S.O. 1115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2001) of the Central Government Industrial Tribunal/Labour Court Bhubaneswar now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Management of Rourkela Steel Plant Rourkela and their workman, which was received by the Central Government on 24-3-2011.

[No. L-29012/19/98-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri J. SRIVASTAVA,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 50/2001

Date of Passing Award—28th January, 2011

Between :

The Management of the Managing Director,
Rourkela Steel Plant, P.O. Rourkela,
Sundargarh-769 011

....1st Party-Management

(And)

Their workman Shri B. K. Tiwary,
Represented through the Secretary,
Steel Employees Trade Union,
A-49, Sector 16, Rourkela, Sundargarh.

Subsequently added :—

The Working President, Steel Employees
Association, Rourkela, B-40, Sector-7,
Rourkela-769 003.

....2nd Party-Union

APPEARANCES :

Shri J. K. Dash, Sr. Manager (Law)	...	For the 1st Party-Management.
Shri K. Mishra, Working President, Steel Employees Association.	...	For the 2nd Party-Union.

AWARD

1. This reference has been made by the Government of India in the Ministry of Labour in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 with respect to an industrial dispute existing between the employers in relation to the Management of Rourkela Steel Plant and their workman vide letter No. L.-29012/19/98-IR (M), dated 05-11-1998.

2. The dispute as mentioned under the schedule is quoted as below.

“Whether the refusal of promotion to Shri B. K. Tiwari from L-6 to L-7 grade by the management of Rourkela Steel Plant in line with the Cluster promotion policy during the year 1997 is legal and justified ? If not, to what relief the workman is entitled to ?”

3. The 2nd Party-Union through its Secretary has filed the statement of claim in which he has stated that the disputant-workman Shri B. K. Tiwari pl. no. 931280, Sr. Operative Foundries (Opn.) Department presently working in Blast Furnace (Opn.) of Rourkela Steel Plant (SAIL) was charge-sheeted on 6-3-1997 and again on 7-5-1997 by the Management of foundries (Opn.) Rourkela Steel Plant, Rourkela alleging negligence of duty. The charges were denied being false and fabricated. He was called for personal hearing. During personal hearing he made request for supply of copies of statement of the witnesses and document on the basis of which charges were framed. He also requested to record his statement, but neither any copy of the document or statement of the witnesses was supplied nor his statement was recorded. The officer conducting the enquiry refused to hear and record his statement and without considering all the aspects he held him guilty of the charges. The disputant-workman was suspended from duty with effect from 16-8-1997 to 18-8-1997 by the Asst. General Manager Foundaries (Opn.). He appealed before the General Manager (M) vide his letter dated 26-8-1998 but nothing was communicated to him by the 1st Party-Management. Again for the third time a charge-sheet dated 1-8-1997 was issued to him alleging negligence of duty. The charges were denied being false and fabricated. It has been alleged by the 2nd Party-Union that, since Shri B.K. Tiwari is a member of the Union namely Steel Employees Trade Union and was involved in trade union activities in Foundaries Department of Rourkela Steel Plant (SAIL) for which the Management of Foundaries (Opn.)

Rourkela Steel Plant, Rourkela initiated departmental proceedings against him on false, fabricated and baseless charges just to curb his lawful trade union activities and to deny his legitimate promotion due from June, 1997, he was denied promotion due from June, 1997 under non-executive promotion policy of Rourkela Steel Plant (SAIL)-Ref. No. PL-IR 2(10)/96 dated 10-6-1996 whereas promotion was allowed to his juniors, which is clearly a vindictive and discriminatory action of the Management. No departmental enquiry was conducted by the 1st Party-Management of SAIL regarding three charge-sheets issued to him on three different occasions. He was deprived of reasonable opportunities of hearing violating the basic principles of natural justice. Personal hearing was conducted with pre-occupied mind only to dispel the conclusion already drawn by the Management to punish the disputant-workman. Prayer has been made to direct the 1st Party-Management to give him promotional benefit with retrospective effect along with all consequential relief.

4. The 1st Party- Management has contended in its written statement that the reference is beyond jurisdiction. The disputant workman was charge-sheeted on 7-5-1997 for negligence of duty and after the charge was established in the enquiry through personal hearing he was punished with suspension for three days i.e. from 16-8-1997 to 18-8-1997 without wages. As per rules of the Company an employee undergoing minor punishment is deprived of promotion for a period of six months from the date of imposition of punishment. Before the expiry of period of debarment he was again awarded with punishment of warning issued on 8-4-1998 in another enquiry. By that time the disputant-workman had already raised an industrial dispute before the State Labour machinery as well as before the Central Labour machinery simultaneously on the same issue. Hence no further steps could be taken in the matter of promotion pending conciliation proceedings. In the disciplinary proceeding arising out of charge-sheet dated 6-3-1997 the disputant-workman was issued with an advisory not to repeat the misconduct of negligence of duty in future. The allegation of the 2nd Party-Union that the Management did not produce any statement of witnesses etc. are misconceived in as much as the disputant-workman having been issued with a minor charge-sheet no witness was required to be produced during personal hearing. The said enquiry through personal hearing was conducted in accordance with the provisions of the Standing Orders. It is totally false and contrary to the evidence on record that the Asst. General Manager refused to hear and record the statement of the disputant-workman. It is not within the knowledge of the Management that the disputant-workman was a member of any Union. His membership of any trade union has got nothing to do with the disciplinary proceedings. Although for such repeated misconduct the disputant-workman deserves to be awarded with an exemplary punishment,

yet the disciplinary authority all along has taken lenient view by issuing advisory letter, warning and minor punishment of suspension without wages for three days. The allegations of the 2nd Party-Union that the proceedings were drawn because of trade union activities of the disputant-workman are unfounded and uncalled for. The allegations of denial of promotion, violation of principles of natural justice, illegal and vindictive action etc. are false, baseless and hence denied. Therefore the disputant-workman is not entitled to any relief whatsoever on the merit of the case.

5. Following issues were framed on the basis of the pleadings of the parties.

ISSUES

1. Whether the reference is without jurisdiction and not maintainable ?
2. Whether the punishment of suspension without wages for three days from 16-8-1997 to 18-8-1997 after a personal hearing is proper and justified ?
3. Whether refusal of promotion to Shri B. K. Tiwari from L-6 to L-7 grade by the Management in line with cluster promotion policy during the year 1997 is legal and justified ?
4. If not, what relief the workman is entitled to ?
5. The 2nd Party-Union has examined one witness, namely Shri Binaya Kumar Tiwari as W.W.-1 and filed number of documents proved and exhibited as Ext.-A to G.
6. The 1st Party-Management has previously examined Shri Dhirendra Mishra on preliminary Issue No.2 and later examined another witness namely Shri Anup Kumar Acharya as M.W.-1 on other issues and filed 14 numbers of documents proved and exhibited as Ext.-1 to 14.

FINDINGS

ISSUE NO. II

8. This issue has already been decided by my learned predecessor on 1-1-2008 as preliminary issue. The findings given on this issue on 1-1-2008 shall form part of this award.

ISSUE NO. I

9. Although this issue should have been decided at the very outset of the hearing of the reference as it goes to the very root of the case, yet it is taken now to correct the mistake. It transpires while going through the order sheet dated 13-5-2009 that my Learned Predecessor sought a clarification from the parties observing that the 2nd Party-Union had raised two disputes one before the State Labour enforcement authority and the other before the Central Labour enforcement authority for self same cause and on

that plea an issue relating to the maintainability of the present reference was framed challenging the jurisdiction of this Tribunal. But no explanation or evidence on that point has been led by either of the parties. Consequently both the parties have filed written note of argument explaining their stand.

10. In the written statement filed by the 1st Party-Management a plea regarding maintainability of the reference and lack of jurisdiction in this Tribunal was taken. In Para 5.1 of the written statement the 1st Party-Management has stated that the disputant-workman had raised an industrial dispute before the State Labour machinery as well as Central labour machinery on the self same issue. The contention of the 1st Party-Management is that since the State Government is the appropriate government for SAIL (RSP) within the definition of Industrial Disputes Act and it has been confirmed by the Hon'ble Supreme Court in the case of "SAIL-versus-National Water Front Workers and Others" (2001-II-LLJ-1087), the Central Government is incompetent to refer the dispute to this Tribunal in respect of RSP (SAIL). The Secretary to the Government of India consequent upon the above judgement issued directive by letter dated 4-2-1998 to all units and intimated to all the State Governments indicating that the letter dated 16-10-1997 notifying the Central Government as the appropriate Government for the Central Public Sector Undertakings be kept in abeyance for administrative reasons. There-upon the Joint Labour Commissioner, Orissa intimated to all concerned that the State Government was the appropriate government under the Industrial Disputes Act vide letter dated 21-2-1998. The Government of India also published a notification in the gazette dated 3-7-1998 delegating all the powers exercisable by it under the Act and rules made thereunder to the State Government in relation to all the Central Public Sector Undertakings and their subsidiaries, corporations and autonomous bodies specified in schedule as annexed to this notification. Thus the reference made by the Central Government to this Tribunal is without jurisdiction and contrary to the notification dated 3-7-1998. The State Labour Enforcement authority had also admitted the dispute raised by the disputant-workman for conciliation and on failure the matter is before the Government for consideration as to whether the reference can be made on the dispute raised by the Union. Copy of notification of Ministry of Labour dated 3-7-1998 has also been filed in which the Government of India has clarified that all the powers exercisable by it under the Industrial Disputes Act, 1947 and the rules made there- under shall in relation to all the Central Public Sector Undertakings and their subsidiaries, corporations and autonomous bodies specified in schedule annexed to this notification be exercisable also by the State Government subject to the condition that the Central Government shall exercise all the powers under the said Act and Rules made

thereunder as and when it considers necessary to do so. In the Schedule at serial No. 119 the name of Steel Authority of India Limited, New Delhi (excluding mines) has been mentioned which means that the powers exercisable by the Central Government under the Industrial Disputes Act and the Rules made there-under shall also be exercisable by the State Government in respect of all the Central Public Sector Undertakings and their subsidiaries, corporations and autonomous bodies specified in the schedule annexed to the notification.

11. The 2nd Party-Union has replied to this contention by saying that notification of the Ministry of Labour, Government of India dated 3rd July, 1998 simultaneously retaining the powers in itself under the Industrial Disputes Act and Rules made thereunder has delegated the same powers to the State Government in relation to all the Central Public Sector Undertakings and their subsidiaries, corporations and autonomous bodies specified in the schedule annexed to this notification. Therefore it cannot be said that the Government of India has become destitute of powers vested in it under the aforesaid Act and Rules made thereunder and can very well refer the industrial dispute to this Tribunal. It has filed a photostat copy of the letter dated 6-1-1998 withdrawing the complaint regarding the present dispute from the Conciliation officer-eum-D.L.O., Rourkela.

12. Earlier in the case of "Air India Statutory Corporation-versus-United Labour Union and Others" (AIR 1997 SC 465) the Central Government was declared as the appropriate government in respect of Central Public Sector Undertakings, but the above judgement was overruled by a larger bench of the Hon'ble Supreme Court in the case of "Steel Authority of India Limited-Versus-National Water Front Workers & Others" (2001-II-LLJ SC 1087).

13. In the latter case the Hon'ble Supreme Court has held that the Central Government will be the appropriate government in relation to an industrial dispute concerning :—

- (i) any industry carried on by or under the authority of the Central Government or, by a railway, company
- (ii) any such controlled industry as may be specified in this behalf by the Central Government or the enumerated industries which form part of the definition of appropriate government (given in Section 2-(a) of the Industrial Disputes Act, 1947).

14. The State Government shall be the appropriate government in relation to any other industry in which state the same is situated.

15. The definition of "appropriate government" given in Section 2-(a) of the Industrial Disputes Act, 1947 is very clear and distinctive. The Hon'ble Supreme Court has also not given any other connotation to this definition

and it admits of no other interpretation. The notification issued by the Ministry of Labour, Government of India dated 3rd July, 1998 cannot over-ride the clear and distinctive powers of the Central Government and the State Government exercisable by them as the appropriate government within the definition of Section 2-(a) of the aforesaid Act. Therefore, in my view the Central Government was not competent and within its power to refer the industrial dispute in relation to the Management of RSP (SAIL), Rourkela to a Central Government Industrial Tribunal-cum-Labour Court. Where the powers exercisable under the Act or the rules made thereunder do not vest in a given authority, it cannot delegate those powers to another authority under Section 39 of the Act.

16. In the ultimate analysis and as per the legal position I am of the view that the present dispute is not maintainable in this Tribunal as it was referred not by a competent authority or appropriate government. The State Government was only empowered to refer the dispute to a State Tribunal. This Tribunal acting as Central Government Industrial Tribunal-cum-Labour Court cannot adjudicate upon an industrial dispute which is within the competence of the State Industrial Tribunal. Therefore this Tribunal also lacks jurisdiction. Consequently it is held that the present reference is without jurisdiction and not maintainable in this Tribunal-cum-Labour Court. Issue No.1 is decided accordingly.

17. Since the Central Government Industrial Tribunal-cum-Labour Court has no jurisdiction to adjudicate upon the present industrial dispute existing between the Management of Rourkela Steel Plant (SAIL) and their workman, it cannot go further to record its finding on rest of the issues because any finding given on the rest of the issues will be beyond the competence and jurisdiction of this Tribunal-cum-Labour Court.

18. The reference is accordingly answered and returned to the Government of India in the Ministry of Labour for necessary action at their end.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 मार्च, 2011

का.आ. 1116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स अब्दुल करीम पुत्र श्री पीर खान लाईम स्टोन माईन मालिक के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 12/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2011 को प्राप्त हुआ था।

[सं. एल-29012/195/98-आई आर(एम)] ~

जोहन तोपनो, अवर सचिव

New Delhi, the 25th March, 2011

S.O. 1116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/99) of the Central Government Industrial Tribunal/Labour Court, Kota now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Sh. Abdul Karim s/o Sh. Peer Khan Lime Stone Mine Owner, and their workmen, which was received by the Central Government on 25-3-2011.

[No. L-29012/195/98-IR (M)]

JOHAN TOPNO, Under Secy:

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण /कोटा/
केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी—अनुराधा शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या./केन्द्रीय/-12/99

दिनांक स्थापित: 10-6-99

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश संख्या एल. 29012/195/98/आई आर(एम) दिनांक 20-4-99

निर्देश/विवाद अन्तर्गत धारा 10(1) (घ) औद्योगिक विवाद
अधिनियम, 1947

मध्य

मोहम्मद असरार खान पुत्र श्री मोहम्मद गुलाम जिलानी द्वारा संयुक्त महामंत्री, हिन्द मजदूर सभा, बंगाली कोलोनी छावनी, कोटा।

—प्रार्थी श्रमिक

एवं

मैसर्स अब्दुल करीम पुत्र श्री पीर खान,
लाईम स्टोन माईन मालिक,
गांव च पोस्ट मोड़क स्टेशन, कोटा।

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री एन. के. तिवारी

अप्रार्थी नियोजक की ओर से : कोई उपस्थित नहीं

अधिनिर्णय दिनांक : 26-8-2010

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश दिनांकित 20-4-99 के जरिए निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त “अधिनियम” से सम्बोधित किया जावेगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :-

“Whether Shri Mohammed Asrar Khan S/o Shri Mohammed Gulam Julani was a workman within the

meaning of Section 2-S of the I.D. Act ? If so, whether the termination of service of the workman is proper and justified ? If not, to what relief the workman is entitled ?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्व उपरान्त पक्षकारों को सूचना विधिवत् रूप में जारी की गयी ।

3. प्रार्थी मोहम्मद असरार खान की ओर से क्लेम स्टेमेन्ट प्रस्तुत कर संक्षिप्तः यह अभिकथित किया गया है कि उसे अप्रार्थी मै. अब्दुल करीम स्टोन कॉटेक्टर मोडक स्टेशन, कोटा जिसमें नाम बदलकर अब्दुल करीम पुत्र पीर खान, कूकड़ा लाईम स्टोन माईंस, मोडक, स्टेशन, कोटा कर लिया है (जिसे तदुपरान्त "अप्रार्थी नियोजक" से सम्बोधित किया जावेगा) द्वारा दि. 6-6-90 से माईंस के प्राथमिक चिकित्सा केंद्र पर डॉक्टर के पद पर सेवा में नियोजित किया गया था ! उक्त माईंस चिकित्सा केंद्र पर प्रार्थी के अतिरिक्त अन्य कोई कर्मचारी नहीं था, चिकित्सा सम्बन्धी समस्त कार्य (नर्स, कम्पाउण्डर) सभी कार्य प्रार्थी को ही करना होता था । प्रार्थी को किसी को नियुक्त करने व नौकरी से हटाने व अनुशासनात्मक कार्यवाही करने का कोई अधिकार प्राप्त नहीं था । प्रार्थी अधिनियमान्तर्गत धारा 2(एस) में "वर्कमेन" (कर्मकार) की परिभाषा में आता है । प्रार्थी को अचानक नियोजक द्वारा दिनांक 24-9-97 से बिना किसी पूर्व सूचना व कारण के नौकरी से हटा दिया गया । प्रार्थी ने दि. 6-6-90 से 23-9-97 तक निरन्तर कार्य करते हुए 240 दिन से भी अधिक समय तक कार्य पूर्ण कर लिया था तथा प्रार्थी ने उसे से पूर्व अधिनियम की धारा 25-एन के प्रावधानान्तर्गत 3 माह का नोटिस अथवा नोटिस वेतन नहीं दिया, ना छंटनी का मुआवजा ही दिया अथवा प्रस्तावित किया । इसके अतिरिक्त उसे सेवा से निकाले जाने के बाद उसके स्थान पर नये कर्मचारी को नियोजित कर लिया गया तथा उसे पुनः नियोजक का अवसर नहीं दिया जोकि धारा 25-एच के प्रावधानों की अवहेलता है । अन्त में प्रार्थी ने कि उसे उक्त प्रकार से सेवा से निकाला जाना अनुचित व अवैध घोषित करते हुए पिछले सम्पूर्ण वेतन व अन्य समस्त लाभों रहित सेवा में बहाल करवाया जावे ।

4. अप्रार्थी नियोजक की ओर से जवाब प्रस्तुत कर उक्त क्लेम का प्रतिवाद करते हुए यह अभिकथित किया गया है कि प्रार्थी मोह. असरार अप्रार्थी कूकड़ा खान में दि. 6-6-90 से डॉक्टर के पद पर नियुक्त थे तथा इनको कंपनी के श्रमिकों की देखभाल के लिए भी गया था । कंपनी द्वारा जो दवाई श्रमिकों के लिए मंगाई जाती थी, उह दवाई प्रार्थी मोह. असरार कंपनी के नियमानुसार दवाई मंगाने की परची बनाकर माईंस फोरमेन के हस्ताक्षर करवाने के बाद माईंस एजेंट अ.हबीब के हस्ताक्षर करवाकर पारस मेडिकल स्टोर मोडक स्टेशन से मंगाता था और सभी दवाईयां ऑफिस इन्वार्ज को संभलाकर जैसे-जैसे जरूरत पड़ती थी, लेता था, किन्तु इसकी पालना सही तरीके से नहीं करने पर इसका रेकार्ड बेलेन्स दोनों फोरमेन ने मांग लिया था जिसमें अनियमितता पायी गयी, दवाई बराबर नहीं मिल पायी । इस अनियमितता के सम्बन्ध में प्रार्थी से पूछा कि आपको क्या कहना है, अपर अपनी गलती हो तो लिखकर दे देवें नहीं तो मामला माईंस एजेंट के समक्ष रख दिया जायेगा । प्रार्थी ने अपनी गलती की क्षमा नहीं मांगी और उसका मामला माईंस एजेंट के पास रखा गया

जिस पर उन्होंने सभी स्टाफ को व उसे बुलाकर पूछताछ की । सभी स्टाफ कर्मचारियों का एक ही जवाब था कि गलती रखीदूरीन (मुंशी) की नहीं है, प्रार्थी की है, उसने हम गरीब के साथ धक्कामुक्की की । इस पर प्रार्थी ने कहा कि बार-बार मुझसे दवाई का हिसाब मांग करता था, इस बजासे कहासुनी हो गयी थी । जो कंपनी की दवा मिली है, उसके अलावा प्रार्थी की स्वयं की दवा थी जिससे वह प्राईवेट प्रेक्टिस करके कमा लेता था । माईंस एजेंट ने कहा कि अगर तुझे नौकरी करना है तो प्राईवेट प्रेक्टिस बंद करनी पड़ेगी, डयूटी में प्राईवेट प्रेक्टिस नहीं करेगा, डयूटी के बाद करेगा । यह बात प्रार्थी को मंजूर नहीं हुयी । प्रार्थी को गलती का माफीनामा लिखकर देने को कहा ताकि भविष्य में गलती ना हो, किन्तु उसने ऐसा करने से मना कर दिया और उसके बाद वह डयूटी पर नहीं आया । इस तरह प्रार्थी को अप्रार्थी नियोजक द्वारा कभी भी नौकरी से अलहेदा नहीं किया बल्कि वह स्वयं ही नौकरी छोड़कर चला गया । उक्त कारणों से प्रार्थी का क्लेम निराधार होने से सब्य निरस्त किया जावे । प्रार्थी ने 240 दिन पूरे नहीं किये व "वर्कमेन" की परिभाषा में नहीं आता है ।

5. प्रार्थी की ओर से स्वयं का शपथ-पत्र साक्ष्य में प्रस्तुत कर परीक्षित करवाया गया । अप्रार्थी नियोजक की ओर से कोई साक्ष्य प्रस्तुत नहीं की गयी । प्रार्थी की ओर से लिखित साक्ष्य में भी प्रदर्श डबल्यू । लगा डबल्यू 7 प्रलेख प्रस्तुत कर प्रदर्शित करवाये गये ।

6. आदेशिका दिनांकित 13-8-10 के अनुसार अप्रार्थी नियोजक प्रतिनिधि बाबजूद इन्तजार के न्यायाधिकरण में उपस्थित नहीं हुए । अंततोगत्वा बहस प्रार्थी प्रतिनिधि की अन्तिम रूप से सुनी गयी जिसमें उन्हीं तथ्यों को दोहराया है जोकि उसने अपने अभ्यावेदन में वर्णित किये हैं । पत्रावली व उपलब्ध साक्ष्य का ध्यानपूर्वक परिशीलन किया गया । विद्वान प्रतिनिधि प्रार्थी की ओर से न्यायदृष्टांत "1962(TT) एलएलजे 37-बंगल यूनाईटेड टी कंपनी लिमि: बनाम रामलभाया एवं अन्य (मा: असम उ.न्या.)" भी प्रस्तुत किया गया है जिसका सासमान अध्ययन किया गया ।

7. प्रार्थी का यह कथन रहा है कि वह दि. 6-6-90 से 23-9-97 तक अप्रार्थी के यहां डॉक्टर के पद पर नियोजन में था । इस तथ्य के सम्बन्ध में अप्रार्थी ने जवाब के पैरा सं. 1 में स्पष्टतः अलग से कुछ नहीं लिखा, मात्र यह वर्णित किया कि "श्रमिक ने जो तथ्य अपने क्लेम में दर्ज किये हैं, वे नितांत असत्य एवं मनधड्हत हैं" । किन्तु प्रत्युत्तर (जवाब) के पैरा नं. 4 में प्रार्थी का डॉक्टर के पद पर नियुक्त होना उल्लेखित किया है । इस प्रकार अप्रार्थी नियोजक ने इस तथ्य को स्वीकार किया है इसलिए यह विवादित नहीं रह जाता है ।

8. प्रार्थी ने "कर्मकार" होना व्यक्त किया है, जबकि अप्रार्थी ने अपने प्रत्युत्तर के पैरा नं. 2 में प्रार्थी के कर्मकार (Workman) होने से इन्कार किया है तथा पैरा नं. 5 में यह भी वर्णित किया है कि प्रार्थी स्वेच्छा से काम पर नहीं आया । अप्रार्थी ने प्रार्थी का दुराचरण भी प्रत्युत्तर के पैरा नं. 4 में बताया है ।

9. जहां तक प्रार्थी के दुराचरण का प्रश्न है, अप्रार्थी नियोजक ने दुराचरण का आरोप लगाया, किन्तु इस सन्दर्भ में प्रार्थी के विरुद्ध

कोई जांच कार्यवाही नहीं की, नाही कोई साक्ष्य प्रस्तुत की। ऐसी स्थिति में अप्रार्थी द्वारा दुराचरण बाबत किया गया यह कथन अप्रमाणित रहता है।

10. अप्रार्थी नियोजक ने प्रत्युत्तर के पैरा 5 में स्पष्ट रूप से कथन किया है कि प्रार्थी को नौकरी से नहीं हटाया, वह स्वयं ही नौकरी छोड़कर चला गया, किन्तु इस तथ्य पर भी कोई प्रभावी प्रतिपरीक्षा प्रार्थी से अप्रार्थी पक्ष द्वारा नहीं की गयी तथा कोई दस्तावेज भी प्रस्तुत नहीं गया एवं जांच कार्यवाही की गयी। इस सम्बन्ध में कोई मौखिक साक्ष्य भी प्रस्तुत नहीं की गयी। ऐसी स्थिति में यह तथ्य भी अप्रमाणित रहा है।

11. अप्रार्थी ने यह कथन किया है कि प्रार्थी “कर्मकार” नहीं है; अधिनियम की धारा 2(एस) में “कर्मकार” (Workman) की परिभाषा दी गयी है जो निम्न प्रकार है :—

“(s) ‘workman’ means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Government.”

12. प्रार्थी ने अपने क्लेम स्टेटमेन्ट में उल्लेखित किया है कि अप्रार्थी नियोजक ने प्रार्थी को दिनांक 6-6-90 से लाईंस के प्राथमिक चिकित्सा केन्द्र पर डॉक्टर के पद पर नियोजित किया था तथा नियोजक ने प्रार्थी को अचानक बिना कोई कारण बताये, बिना किसी पूर्व सूचना के दिनांक 24-9-97 से नौकरी से हटा दिया। अप्रार्थी नियोजक ने प्रत्युत्तर के पैरा नं. 2 में मात्र यह उल्लेखित किया है कि “श्रमिक “वर्कमेन” की परिभाषा में नहीं आता है।” इसके अतिरिक्त किसी भी तथ्य को अस्वीकार नहीं किया है तथा पर्यवेक्षण (Supervision) के क्या अधिकार निहित हैं, यह भी कथन नहीं किया है। इस प्रकार प्रार्थी ने अपनी साक्ष्य में उपरोक्त कथन किये हैं। उसने प्रतिपरीक्षण में स्पष्ट रूप से कहा है कि दवा मंगाने के लिए भी दो अधिकारियों के हस्ताक्षर के बाद ही मंगा सकता था। प्रार्थी ने अपने क्लेम व शपथ-पत्र में यह भी कथन किया है कि प्रार्थी अकेला ही डॉक्टर था, उक्त चिकित्सा केन्द्र पर प्रार्थी के अतिरिक्त अन्य कोई कर्मचारी नियुक्त नहीं था, चिकित्सा सम्बन्धी समस्त कार्य (नर्स, कम्पाउण्डर) सभी कार्य प्रार्थी को ही करना होता था। प्रार्थी को किसी को नियुक्त करने, नौकरी से हटाने व अनुशासनात्मक कार्यवाही करने का कोई अधिकार प्राप्त नहीं था। अप्रार्थी ने इसका कोई खण्डन नहीं किया व अपनी ओर से कोई साक्ष्य पेश नहीं की। प्रार्थी का यह भी कथन रहा है कि दवाईयां मंगानी होती थी तब मैं ऐजेन्ट के पास जाता था तो वह पर्ची पर साईन करके मुझसे कह देते थे क्लेम मुंशी को दे दो, वो लेकर आ जायेगा। इस प्रकार यह भी स्पष्ट है कि दवाईयां आदि भी प्रार्थी द्वारा नहीं लायी जाती थीं। इस प्रकार प्रार्थी प्रशासनिक या प्रबन्धकीय अथवा पर्यवेक्षणक हैसियत से कार्य का सम्पादन नहीं करता था।

प्रार्थी पक्ष द्वारा प्रस्तुत न्यायदृष्टांत “1962(TT) एलएलजे 37-बंगाल यूनाईटेड टी कंपनी लि. बनाम रामलभाया एवं अन्य-(मा. असम ड.न्या.)” में डॉक्टर का कार्य तकनीक (Technical) मानकर “कर्मकार” (Workman) माना गया है। इस विवेचन से स्पष्ट है कि हस्तागत प्रकरण में प्रार्थी का पदीय कार्य तकनीक प्रकृति का होने व प्रशासनिक तथा प्रबन्धकीय दायित्व नहीं होने से वह “कर्मकार” (Workman) की परिभाषा में आता है।

13. पत्रावली पर उपलब्ध सामग्री एवं साक्ष्य से यह तथ्य भी स्पष्ट है कि प्रार्थी के मामले में अप्रार्थी नियोजक द्वारा अधिनियम की धारा 25-एफ के ग्रावधानों की पालना नहीं की गयी है, अतः अधिनियमान्तर्गत विधिवत पालना नहीं किये जाने से प्रार्थी श्रमिक को दिनांक 24-9-97 से सेवा से हटाया जाना उचित एवं वैध माने जाने योग्य नहीं है।

14. अब जहां तक अनुतोष का प्रश्न है, प्रार्थी श्रमिक की शपथ-पत्र में मात्र यही साक्ष्य सरसरी तौर पर रही है कि उसने नौकरी से हटाए जाने के बाद से कहीं अन्यत्र नौकरी नहीं की है, किन्तु उसका यह कथन अक्षरसः माने जाने योग्य नहीं है। प्रार्थी की कार्य प्रकृति को देखते हुए यह निश्चित है कि उसने अन्यत्र कार्य करके कुछ लाभार्जन अवश्य किया होगा। प्रकरण के तथ्यों व समस्त परिस्थितियों को ध्यान में रखते हुए प्रार्थी श्रमिक, बिना पिछले वेतन के, उन्हीं सेवा-शर्तों पर जैसे कि वह पूर्व में नियोजित था, अपनी सेवा की निरन्तरता सहित सेवा में पुर्णस्थापित होने का अधिकारी घोषित होने योग्य समझा जाता है।

परिणामतः भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा सम्प्रेषित निर्देश/विवाद को अधिनिर्णित कर इस प्रकार उत्तरित किया जाता है कि प्रार्थी श्रमिक मोहम्मद असरार खान धारा 2(एस) अधिनियमान्तर्गत अप्रार्थी नियोजक मै. अब्दुल करीम, लाईम स्टोन माइन मालिक, गांव व पोस्ट मोडक, स्टेशन, कोटा के यहां “कर्मकार” (Workman) की हैसियत से नियुक्त था। अप्रार्थी नियोजक द्वारा प्रार्थी श्रमिक को दिनांक 24-9-97 से सेवा से हटाया जाना उचित एवं वैध नहीं है। प्रकरण के तथ्यों व समस्त परिस्थितियों को दृष्टिगत रखते हुए प्रार्थी श्रमिक, बिना पिछले वेतन के, उन्हीं सेवा-शर्तों पर जैसे कि वह पूर्व में सेवा में नियोजित था, अपनी सेवा की निरन्तरता सहित सेवा में पुर्णस्थापित होने का अधिकारी है।

अनुराधा शर्मा, न्यायाधीश

नई दिल्ली, 25 मार्च, 2011

का.आ. 1117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुवंश में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-। चण्डीगढ़ के पंचाट (संदर्भ संख्या 143/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/48/2003-आई आर(बी- II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 25th March, 2011

S.O. 1117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 143/2k3) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Punjab and Sind Bank and their workmen received by the Central Government on 25-3-2011.

[No. L-12012/48/2003-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH,**

Case I. D No-143/2K3

Sh. Sarabjit Singh C/o Sh. R. K. Singh Parmar, 211-L, Brari, PO-Partap Singh, Nangal Dam, Ropar

...Applicant

Versus

The Zonal Manager, Punjab and Sind Bank, Zonal Office-II, Jalandhar City.

...Respondent

APPEARANCES

For the Workman : Shri. R. K. Singh

For the Management : Shri. J. S. Sathi

AWARD

Passed on :- 4-2-11

Central Government vide notification No. L-12012/48/2003 IR(B-II) dated 24-6-2003 has referred the following industrial dispute to this Tribunal for adjudication.

“Whether the action of the management of Punjab and Sind Bank in terminating the services of Sh. Sarabjit Singh S/o Sh. Harmam Singh, ex-peon (Daily Wage Basis) w.e.f. 18-2-2001 without any notice and without any payment of retrenchment compensation is legal and just ? If not, what relief the concerned workman is entitled to and from which date ?”

After receiving the reference parties were informed by this Tribunal. Both parties appeared and filed their respective pleadings. The case of the workmn Sarabjit Singh in nutshell is, that he was engaged by the Punjab and Sind Bank at branch office Bhogpur in the year 1993 and worked in Bhogpur on muster rolls till 31-1-2001.

Thereafter from 1-2-2001 till end of February 2001 he worked in the branch bank, extension counter Oswal Agro Mills, Phagwara. He has completed 240 days of work in every calendar year including the year prior to the date of his termination. His services were terminated without giving him any notice or one month wages in lieu of notice and without payment of lawful terminal dues. The workman has prayed for declaring the termination order illegal and void ab initio being against the provisions of the Act and has prayed this Tribunal for reinstatement order along with consequential benefits.

The management appeared and opposed the claim of the workman by filing written statement. In preliminary objections, the management has challenged the jurisdiction of this Tribunal without explaining the reasons for challenging the same. It is also contended by the management that initial appointment of the workman was not lawful. He was engaged on casual basis intermittently. He was not recruited as per the rules of the department. He has not completed 240 days of work in the preceding year from the date of termination.

Both of the parties were afforded the opportunity for adducing evidence. The workman filed his affidavit and he was cross-examined by learned counsel for the management. To prove the legality of his initial appointment, he has filed two appointment letters Ex. W1 and W2. The workman has also moved an application for summoning the documents relating to his services on 24-5-2005 which was allowed by this Tribunal by detailed order. During the cross-examination of the management witness, this Tribunal again directed the witness to come up with the documents. The recording of cross-examination was deferred on 14-9-2010 for this cause only. On 18-10-2010, the cross-examination was again recorded. He refused to have any document relating to the services of workman. The witness has admitted that general charges register is maintained by every branch of the bank and the nature of register is such which can never be destroyed. Instead of it, the management failed to provide this general charges register. For rest of the documents the witness has stated that all the documents were destroyed in the year 1996, but the management failed to provide any order of competent authority destroying all the documents prior to 1996. This information that all the documents including vouchers and attendance sheets of the workman have been destroyed was said to be gathered from a certificate given by the Branch Manager of the concerned branch on 20-10-2010 and 21-9-2010 but the witness failed to inform this Tribunal that on what basis the certificates dated 20-10-2010 and 21-9-2010 were given by the Branch Manager concerned. The workman has alleged to work upto 2001. It is the contention of the management that documents upto 1996 have been destroyed but the management failed to provide the documents from 1997 to 2001.

It is true that workman has to prove that he had worked 240 days in the preceding year from the date of termination. The workman can discharge this burden by adopting any mode and means for producing evidence. This mode and means should be lawful and reasonable. The workman has opted to prove and discharge his burden by summoning the documents which is a lawful and reasonable procedure, but the reasons known to the management, on false pretext no document was provided with. Accordingly, adverse inference shall be taken. Now the question arises what should be the nature of adverse inference? Considering the facts and circumstances of the case I am of the view that nature of adverse inference should be to consider and accept the contention of the workman that he has completed 240 days of work in the preceding year from the date of his termination.

Accordingly this Tribunal is of the view that workman has completed 240 days' work in the preceding year from the date of termination (on adverse inference). Admittedly, no notice or one month wages in lieu of notice was given to the workman. It is also admitted that no lawful retrenchment compensation was paid to the workman prior to the termination of his services. As stated earlier initial appointment of the workman was lawful and management arbitrarily, on one fine morning, terminated his services who has completed more than 7 years of the service in the bank. The termination of the workman was against the law and void ab initio.

It is also argued by the workman that the management of Punjab and Sind bank in some similar cases before the Hon'ble High Court has entered into a compromise and in similar cases the services of the workers have been regularized. No such order of the Hon'ble High Court has been placed before this Tribunal. Moreover, the reference referred by the Central Government is relating to legality of termination order and not on the regularization of service of workman. But I am of the view that the grievances of the workman should be remedied by an order of reinstatement on the same position the workman was working prior to the termination of his services. Accordingly, the management is directed to reinstate the services of the workman within one month from the date of publication of Award.

Let Central Government be approached for publication of Award and thereafter file be consigned.

Chandigarh

G. K. SHARMA, Presiding Officer

नई दिल्ली, 31 मार्च, 2011

का.आ. 1118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार महानदी कोलफील्ड्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके

कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 21/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-03-2011 को प्राप्त हुआ था।

[सं. एल-22012/116/2007-आई आर(सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 31st March, 2011

S.O. 1118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2007) of the Central Government Industrial Tribunal-cum-Labour-Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of M/s. Mahanadi Coalfields Limited, and their workmen received by the Central Government on 31-03-2011.

[No. L-22012/116/2007-IR(CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 21/2007

Date of Passing Award—10th March, 2011

Between :

The Management of the Chief General Manager, Talcher Area, M/s. MCL, Po. Dera Colliery, Dist. Angul, Orissa.
1st Party-Management.

And

Their workman Shri Satyaban Pattnaik, At/Po. Dera Colliery, Dist. Angul, Orissa.

... 2nd Party-Workman.

Appearances :

None. ... For the 1st Party-Management.

None. ... For the 2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour has referred the present industrial dispute existing between the employers in relation to the Management of M/s. MCL and their workman in exercise of the powers conferred by

clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their letter No. L-22012/116/2007-IR (CM-II), dated 9-7-2007 as mentioned under the schedule of the letter of reference which is quoted below :—

“Whether the action of the management of M/s. MCL in dismissing the services of Shri Satyaban Pattnaik with effect from 10-8-2001 is legal and justified ? If not, to what, relief is the workman entitled ?

2. The brief facts as disclosed in the statement of claim of the 2nd Party-workman are that the 2nd Party-workman, working as a Loader in the underground mines of Talcher Colliery went on leave sanctioned for ten days from 15-1-2001 to 25-1-2001 and thereafter overstayed on medical ground for two months and came to join his duty with medical fitness certificate on 27-3-2001, but he was not allowed to join. He was charge-sheeted on 10-4-2001, but no document in support of the allegation and list of witness was given to him. Enquiry was conducted and the 2nd Party-workman was removed from service without any self speaking and reasoned order. His appeal was also dismissed. As per his assertion no employee can be punished for his absence on medical ground and no action can be taken on past bad records. When an employee is medically unfit, the employer has no option but to grant him leave as is available to him. The main ground for assailing the order of removal from service is that the competent disciplinary authority as per order No. MCL/CMD/IR/95/S/Order/406 dated 27-1-1995 of the Chairman-cum-Managing Director, MCL Limited in respect of the 2nd Party-workman for the purpose of initiation of disciplinary action such as issue of charge-sheet, suspension, constitution of enquiry committee is the Manager, Talcher Colliery and the major penalty can be imposed by him with the prior approval of the Chief General Manager/General Manager of the area. The 2nd Party-workman at the relevant time was working under the direct supervision/instruction and direction of the Shift-in-charge/under Manager and Overman under the jurisdiction and control of the Manager, Talcher Colliery. Therefore, the General Manager, Talcher Area acted arbitrarily and without any authority and jurisdiction in removing him from service. The 2nd Party-workman has prayed for declaration of his removal from service as illegal, un-justified and without any authority with continuance of service and entitlement to all consequential benefits.

3. The 1st Party- Management inspite of taking several adjournments did not file any written statement. As such the case was ordered to proceed ex parte against the 1st Party-Management vide order dated 11-10-2010 and the 2nd Party-workman was called upon to file ex parte evidence.

4. It is worth mentioning here that the 2nd Party-workman after filing his statement of claim remained absent on most of the dates fixed in the case and did not care to prosecute his case diligently though he was issued notices three or four times. He did not even file any evidence in support of his claim. He has filed photostat copies of certain documents as Annexures to the Statement of claim. The genuinity of the documents, whose photocopies have been filed by him, cannot be presumed ipso-facto. For his continuous absence in the case under hand it cannot be said that he still persists his claim. The ground of challenge of the order of removal from service is that the major penalty of removal from service can only be imposed by the Manager, Talcher Colliery with prior approval of the Chief General Manager/General Manager of that Area whereas in the present case major penalty of removal from service was passed by the General Manager, Talcher area himself who is not the competent authority. The office order of the Chairman-cum-Managing Director as referred to above shows that the major penalty may be imposed by the competent authority who may be one of the Sub-Area Managers/Project, Officers and Colliery Managers/Staff Officers/Deputy General Managers/Additional General Managers and the second man in status after the Chief Manager/General Manager at Area Headquarter with the prior approval of the Chief General Manager/General Manager of the Area. I fail to understand as to why any superior officer other than the competent authority, as mentioned above, cannot pass the order of removal from service whose prior approval was necessary for imposing the penalty of removal from service. In my view any superior officer can very well pass any order within his competence and authority. Copy of charge-sheet filed as Annexure-A to the statement of claim shows that the charges of habitual late attendance or habitual absence from duty without sufficient cause and without sanction of leave were framed against him causing misconduct under Clause 26.24 and 26.30 of the Certified Standing Order. Therefore it cannot be said that he was punished for something on which he was not charge-sheeted. The fairness of the enquiry and impartiality of the Enquiry Officer has not been put in question by the 2nd Party-workman in his statement of claim nor any evidence in this regard has come on record. Therefore the action of the Management of M/s. MCL in dismissing the services of Shri Satyaban Pattnaik, the 2nd Party-workman with effect from 10-8-2001 is held legal and justified and consequently the 2nd Party-workman is not entitled to any relief claimed for.

5. The reference is answered accordingly.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1119.——औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिवीजनल इंजीनियर टेलीकॉम के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 33/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-40012/91/1993 आई आर (डीयू)]
जोहन तोपनो, अवर सचिव

New Delhi, the 29th March, 2011

S.O. 1119.——In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/1994) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Divisional Engineer Telecom and their workmen, which was received by the Central Government on 29-3-2011.

[No. L-40012/91/1993-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 33 of 1994

PARTIES: Employers in relation to the management of Telecom Project, Eastern Zone

AND

Their workmen.

PRESENT: Mr. Justice Manik Mohan Sarkar,
Presiding Officer

APPEARANCE:

On behalf of the Management : Mr. Tapas Kumar Chowdhury,
Advocate.

On behalf of the Workmen : Mr. Sk. Abdul Nasir, Advocate.

State: West Bengal. Industry: Telecom
Dated: 16th March, 2011.

AWARD

By Order No.L-40012/91/93-IR(DU) dated 30-09-1994 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Divisional Engineer Telecom Microwave Project, P-15, India Exchange Place Extn., Todi Mansion, Calcutta-73 in terminating the services of Shri P. S. Mishra, Casual Motor Driver w.e.f. 1-11-1990 is proper, legal and justified? If not, to what relief the workman is entitled?"

2. The workman Prem Sankar Mishra alias Prem Sekhar Mishra joined in Telecom Project (Microwave) as a Motor Driver under Divisional Engineer." Telecom Microwave Project at P-15, India Exchange Place Extension, Calcutta - 73 on 1st October, 1989 in ACG-17 account and he worked there till October, 1990. Workman claimed that there were two Divisional Engineers and the workman concerned drove only a jeep and worked there in total 365 days. The workman claimed to have worked upto 31st October, 1990 though in the said last month he was sent for urgent duty for about four weeks in T & D Circle, Burra Bazar and was paid for full months from 1-10-1989 to 31-10-1990 and payment was by way of bimonthly amount from 1st to 15th of the month and from 16th to end of the month. The workman further submitted that suddenly on 1st November, 1990 the Divisional Engineer Telecom (Microwave Project), Calcutta told that due to some technical difficulties he was not in a position to give work to the workman concerned for few weeks and assured that the workman would be called back to duty when he would get clearance from his higher authorities. Though the workman kept in regular touch with the said Divisional Engineer thereafter, he was not allowed any further work by the said Divisional Engineer and lastly on 14th November, 1990 he issued a certificate to the workman certifying his period of work from October, 1989 to October, 1990. Since thereafter the workman did not receive any call or Intimation for work from the Divisional Engineer and subsequently by a letter dated 22-05-1992 the workman made an appeal to the General Manager, Microwave Project then at 35, Diamond Harbour Road, Kolkata - 27 for providing him the job, but that appeal was unlawfully refused by the Divisional Engineer, Microwave Project and the General Manager, Microwave Project also did not interfere with such unlawful action of the Divisional Engineer and thereafter the workman concerned went for the conciliation proceeding before the Regional Labour Commissioner (Central).

3. In their written statement, the management side stated that the workman was engaged on ad-hoc casual basis to drive the project - owned light vehicle for the first time on 26-10-1989 and not on 1st October, 1989 as alleged and such engagement had taken place under the Divisional Engineer, Telecom Microwave Junction Project, Kolkata a completely separate unit division functioning under a separate Divisional Engineer within the jurisdiction of the same Chief General Manager, Microwave Project, Eastern Zone and so since after such engagement, the workman concerned worked in two separate units/divisions of

Telecom Microwave Project and the Divisional Engineers were separate persons managing the said two projects though both the divisions were placed under the direct and exclusive supervision and management of the same Chief General Manager, Eastern Zone posted at Kolkata. The management Project also claimed in their written statement that since the workman admittedly worked in two separate units under the same management of Telecom Project, tenure of his work in one unit could not be clubbed and/or conjoined with the number of days work in another unit in computing the total days of work of the workman under the management. The management also denied the claim of continuity of engagement of the workman up to October, 1990, but claimed that the said tenure continued up to August, 1990 and that too in two separate units under the same management. It is further claimed that since the workman, a casual driver was not engaged for continuous period of 12 calendar months, he would not satisfy the requirement of Section 25B of the Industrial Disputes Act, 1947 being anterior condition precedent. The management listed the number of days the workman worked with description of two separate units. In respect of work by the workman in Junction Microwave Project, Kolkata it is stated to be of 206 days in total from October, 1989 (6 days) up to June, 1990 (14 days) and the work done by the workman in Microwave Project has been stated as a total of 78 days from 15th June, 1990 up to August, 1990. The management, side further stated in the written statement that though the workman worked for 253 days in total in two different independent and unrelated units of the same management, it would be of no avail to him for any benefit since he was never engaged for a continuous period of 12 calendar months.

4. A rejoinder was filed by the workman, but without any fresh material and on going through it is found that it is almost repetition of the statement made in the statement of claim and denial of some statement made in the written statement by the management.

5. Though dates of the engagement of the workman differed from the workman to the management, it is revealed that the workman was engaged under the same management of the Chief General Manager, Telecom Microwave Project, Eastern Zone, Kolkata, but the last working months of the workman is found to be different from the averments of the respective parties. When the workman has stated that he worked up to October, 1990, the management side claimed that he actually worked up to the month of August, 1990 and not October, 1990.

6. From the pleading of the management in the style of written statement, it is found that the management has stated in paragraph 5 that the workman concerned worked for $(206 + 78)$ 284 days in total though it is claimed that in doing such work the workman concerned worked under two different projects or under two different Divisional

Engineers. So, it is found that the total number of days work by the workman concerned in two projects taken together is no doubt going beyond the earmarked qualifying days of 240 days.

7. Now, it is to be seen whether the working of the present workman in two separate projects and under two different Divisional Engineers may be treated as two different engagements.

8. Mr. Tapas Kumar Chowdhury, Ld. Advocate for the management submitted that the workman concerned worked in two separate departments with two separate engagements. It is further claimed that the workman concerned first worked under one Divisional Engineer in one project and after completing his said engagement he was shifted to another engagement under a separate Divisional Engineer in a separate project and claimed that the said two types of engagements having independent existence cannot be clubbed together for the purpose of accounting total number of days to earn a qualification of eligibility to claim mandatory benefits as provided under Section 25F of the Industrial Disputes Act, 1947. He further submitted that there is no provision of transferring a casual/daily wage earner, and so, his work from one department to the other cannot qualify the workman concerned to be in continuous process of job concerned. Practically Mr. Chowdhury centralized his argument only on the ground of disqualification of the workman concerned in earning eligibility to get the benefits under the mandatory provision of Section 25F of the Act at the time of retrenchment. Mr. Chowdhury repeatedly claimed that the workman concerned never worked for 240 days or more and that too within one calendar year.

9. On the other hand, Mr. Sk. Abdul Nasir, Ld. Advocate for the workman concerned submitted that though the workman worked in two separate departments, he worked under the Telecom Project under which the two departments belong and the said project is manned by the single head being the Chief General Manager and so the period of work in two departments can be clubbed together for accounting the number of days qualifying the workman concerned to get the benefit of mandatory provision under Section 25F of the Act. He also argued that the management has not shown anything that the present workman was engaged separately by the two departments as claimed, nor any material is forthcoming from the side of the management to show that the engagement under one Divisional Engineer was terminated and thereafter a fresh engagement was done in respect of the other department under another Divisional Engineer. Mr. Nasir relied upon a certificate granted in favour of the workman concerned by the Divisional Engineer, Microwave Project (Ext. W-1), to show that the concerned Divisional Engineer certified that the present workman worked for the period from October, 1989 to October, 1990 on purely temporary and occasionally

as and when required basis and relying upon the same it is submitted by him that the said document shows that the entire period of engagement of the workman concerned from October, 1989 to October, 1990 was in continuous process. He also relied upon the oral deposition made by MW-2, Bidesh Kumar Mukhopadhyay who was working as Assistant Engineer in the Microwave Project in the year 1989-90 and presently a Senior S.D.E., Customer Service at Kolkata in 2001 (at the time of deposition) with the statement "The said workman had started working in Junction Microwave Project in October, 1989. The work of Junction Microwave Project was over and then he came to Microwave Project." This statement referred was in the examination-in-chief of the witness concerned. He also referred to another statement during his cross-examination with the statement "The workman was transferred from Junction Microwave Project to the Microwave Project."

10. Both the parties relied upon some documents which have been marked as exhibits on behalf of the respective parties. Mr. Tapas Kumar Chowdhury during his argument submitted as already referred, that since the workman concerned worked in two separate establishments under two separate Divisional Engineers, his work in both the projects cannot be clubbed together to treat his work as a continuous one and to create the qualifying period of 240 days by taking the days of his work in both the establishments. In this respect Mr. Chowdhury relied upon a recent decision reported in (2009) 14 SCC 43 (Haryana State Cooperative Supply Marketing Federation Ltd. v. Sanjay) wherein the Hon'ble Court held relied upon two other decisions reported in (2006) 8 S.C.C. 544, Union of India v. Jummasha Diwan and 1962 Supp. (3) S.C.R. 589, Indian Cable Co. Ltd. v. Workmen that

"the office of the District Manager, Jind and the office of the District Manager, Hissar are separate and distinct and the services rendered by the workman at these two establishments cannot be clubbed for the purpose of reckoning continuity of service within the meaning of Section 25-F ready with Section 25-B of the I.D. Act."

In coming to the said decision, the Hon'ble Court further held:

"There is also no merit in the submission of the learned counsel for the respondent that the workman was transferred from the office of the District Manager, Jind to the Office of the District Manager, Hissar. No transfer order was placed by the workman before the Labour Court."

11. It is fact that in the present reference it is an admitted case that the workman concerned worked in two separate projects, Junction Microwave Project and Microwave Project under two different Divisional Engineers though the entire establishment comes under the total administrative control and management of the Chief General

Manager. The workman was a daily-rated worker being a motor driver and, no case is forthcoming from the side of the workman that actually he was engaged by the Chief General Manager and was placed under the service of the different Divisional Engineers for different periods. Though a story of transfer as told by MW-2 has been banked upon by the workman side to create an atmosphere that the workman concerned did not work separately in two separate establishments under two separate engagements, no material is forthcoming that the work by the workman in two separate establishments were result of a transfer order or direction to do work in another project in the style of transfer direction orally. The management witness being MW-2, though an officer of the management, cannot be treated as the person under whose direct control the workman concerned worked. So the story stated by the said witness about the transfer of the present workman from one establishment to another, earlier establishment being defunct at the time of shifting the duty of the workman, has not been properly proved by the workman concerned since the onus to do so mainly lies upon him since a *prima facie* story of two separate establishments under two separate Divisional Engineers as has already been in the record to show that the workman worked under two separate establishments under two separate controlling officers. The workman concerned is a daily-rated worker and formal selection and appointment and subsequent termination cannot be expected to be done in writing. As there is nothing in writing the Tribunal no other way but to base its finding on the basis of evidence already in record, both oral and documentary. Most part of such evidence has already been discussed.

12. Another dispute has been raised from the side of the management that the term used as "one year" should read as one calendar year and thereby Mr. Chowdhury meant to say that it is in the style of counting from January to December and if these months are taken together in a year, it will be found that the workman concerned did not work for 240 days or more. In this respect a reference can be made in case reported in AIR 1966 SC 75 (Digwadih Colliery v. Workmen) wherein the Hon'ble Court held that service for 240 days in a period of 12 calendar months is equal not only service for a year but is to be deemed in continuous, even if interrupted. Therefore, though Section 25-F speaks of continuous service for not less than one year under the employer, both the conditions are fulfilled if the workman has actually worked for 240 days in 12 calendar months. It is necessary to read the definition of continuous service in Section 25-B of the Act because the provision converts the service of 240 days in a period of 12 calendar months into continuous service for a complete year. So following the said decision of the Hon'ble Court a decision can be arrived at that for counting the period of 240 days of work in 12 calendar months, one should not restrict himself to assess the said period in one calendar year viz. from January to December, but it may start from any month ending completion of the 12 calendar months.

13. But, even if the said format is applied here, it is found that as per description of the management in their pleading, the workman worked for 206 days in such occasion in one of the project at the maximum and in no way it comes within the qualifying period of 240 days. Though the workman concerned has claimed that he worked upto October, 1990, no material is forthcoming from his side to show for how many days in between September, 1990 and October, 1990 he worked since the burden to prove the number of days work lies upon the workman concerned, though a certificate to the effect that he worked upto October, 1990 is there as Ext. W-1 and the said certificate does not give the number of days worked by the workman.

14. In such circumstances, I have no other way but to hold that the workman does not come within the eligibility condition under Section 25-F or 25-B of the Industrial Disputes Act, 1947 to claim the mandatory benefit before retrenchment under Section 25-F of the Act. So, termination of service of the workman concerned by the management without any compensation or notice is justified.

The reference is answered accordingly.

Dated, Kolkata,
The 16th March, 2011.

JUSTICE MANIK MOHAN SARKAR,
Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1120.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. ई. एस. के प्रबंधतंत्र के संबंद्ध नियाजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/ एलसी/आर/74/05) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-13011/1/2005 आई आर (डीयू)]
जोहन तोपनो, अवर सचिव

New Delhi, the 29th March, 2011

S.O. 1120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/74/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MES and their workmen, which was received by the Central Government on 29-3-2011.

[No. L-13011/1/2005-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/74/05

Presiding Officer : SHRI MOHD. SHAKIR HASAN

Shri P. N. Banskar,
Joint Secretary,
MES Kamgar Union, M.P. Area,
Quarter No. P-323/5, MES Colony,
Baragarh,
Baragarh

...Workman/Union

Versus

The Garrison Engineer,
MES, Baragarh, Bhopal,
Baragarh (MP)

...Management

AWARD

Passed on this 3rd day of March, 2011

1. The Government of India, Ministry of Labour vide its Notification No. L-13011/1/2005-IR(DU) dated 20-7-2005 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Garrison Engineer, MES Baragarh, Bhopal (MP) while granting promotion under (Assured Carrier Progression) Scheme to S/Shri Bhanwar Lal, Ashok Kumar, R. S. Joshi, Bhujbal Singh, Shyam Lal and Ram Gopal and fixing less pay than that of their juniors S/Shri Gopi Lal and Badri Prasad is justified? If not, to what relief the workman is entitled?”

2. The Union appeared in the case but did not file statement of claim. A petition is filed that the workmen want to withdraw the present industrial dispute with the liberty to file fresh case before the appropriate legal forum. This clearly shows that the Union/Workman do not want to raise dispute before the Tribunal against the management.

3. On the other hand, the management also appeared. It is submitted that the Union does not want to raise dispute before the tribunal and therefore no dispute award be passed. I find that sufficient time was given to the Union but no step is taken by the Union since there is no provision of the withdrawal of reference by the Tribunal. It is clear that the Union does not want to raise dispute before the Tribunal. Thus this is a reference of no dispute award. Accordingly the reference is answered.

4. In the result, no dispute award is passed without any order to costs.

5. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय सर्वेक्षण विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/195/91) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-42011/52/1991-आई आर (डीयू)]
जोहन तोप्नो, अवर सचिव

New Delhi, the 29th March, 2011

S.O. 1121.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/195/91) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhartiya Sarvekshan Vibhag and their workmen, which was received by the Central Government on 29-3-2011.

[No L-42011/52/1991-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR No. CGIT/LC/R/195/91

Presiding Officer : SHRI MOHD. SHAKIR HASAN

Shri Biharilal Sarsodia,
S/o Shri Mukundi Lal,
Anand Nagar,
Birla Nagar, Gwalior

...Workman/Union

Versus

Superintending Surveyor,
Bhartiya Sarvekshan Vibhag,
No. 60, Party (CC),
Tansen Road,
Gwalior

...Management

AWARD

(Passed on this 2nd day March 2011)

1. The Government of India, Ministry of Labour vide its Notification No.L-42012/52/91-IR(DU) dated 30-10-91

has referred the following dispute for adjudication by this tribunal:-

“Whether the action of the management of Superintending Surveyor Incharge No. 60 party (CC) Gwalior in terminating the service of Shri Beharilal, Driver, is justified? If not, to what relief the workman is entitled to?”

2. The case of the workman, in short, is that the workman was appointed as casual labour in the year 1978 and worked continuously till 1988 when he was terminated in violation of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act 1947). It is further stated that he was appointed as Motor Driver on local rate vide letter No. 546/4/E-1/Second/1 dated 25-4-84 after test and interview. Thereafter since 25-5-84 he was working as Driver in the office of non-applicant. It is stated that time to time he was moved to other places on the same post by movement orders. It is stated that Shri Vishnath Paswan and Shri Lalli Kol were appointed by the same process and are working permanently. It is further stated that Survey of India is an Industry under the Act, 1947. There is an element of economic venture in its activities. Moreover the Central Administrative Tribunal vide its order dated 30-10-90 in OA No. 762/90 directed the workman to approach this forum for redressal. On these grounds, the workman be reinstated with back wages.

3. The management/non-applicant appeared and contested the reference by filing Written Statement. The case of the management, inter alia, is that the workman was engaged on daily wages as local driver. He worked from 1983 to 1988 intermittently. The Store Keeper Shri C.S.Thakur had no authority to furnish any work certificate to the workman. The appointment vide letter No. 546/4/E-1/Second/1 dated 25-4-84 appears to have been admitted. It is stated that Shri Vishnath Paswan is regular employee of Group-D. Shri Lalli Kol was appointed by the Director, Madh Circle, Jabalpur. Thereafter he was appointed at Gwalior. Shri Bhaiyalal Kol was appointed as Group-D employee by the process of appointment. It is further stated that the Survey of India is not an Industry and therefore the Act, 1947 is not applicable. The workman was not appointed by the Competent Authority. On these grounds, the reference be answered in favour of the management.

4. On the basis of the pleadings of both parties, the following issues are for adjudication-

- I. Whether the Survey of India is an industry under the provision of the Act, 1947?
- II. Whether the termination of the workman as Driver by the management is justified?
- III. If not, what relief the workman is entitled?

5. Issue No. I

The first point is as to whether the Survey of India comes under the purview of Industry as has been defined

in the Act, 1947. Now let us examine the evidence adduced by the parties. The workman has stated in his evidence at Pira-15 that the workman has submitted record of Road Maps Railway maps etc. which have been producing, supplying and selling on prices on various centres installed by Survey of India. He has stated that these activities are analogous to trade or business and there is systematic activities with the cooperation of employer and the employees. The workman has filed road map of India, Railway map and full road map which are admitted by the management and are marked as Exhibit W/10 to W/10/b respectively. The workman has also filed cash memo receipt which is also admitted by the management and is marked as Exhibit W/9. This receipt is filed to show that the management used to sell the maps and there is systematic activities of the management. The evidence of the workman is not rebutted. There is no cross-examination on the said point. Thus it is clear that the Survey of India carries a systematic activity organized by the cooperation between the employer and employees for the production and/or distribution of goods and services calculated to satisfy human needs and wishes. The workman has relied the decision reported in AIR 1978 SC 548, Bangalore Water supply and Sewerage Board versus A. Rajappa and others. I find that the Survey of India is an Industry under the purview of the Act, 1947. This issue is decided in favour of the workman and against the management.

6. Issue No. II

Another important point is that whether the termination of workman is justified. Admittedly the workman was employed/engaged as local labour for driving motor. The workman said that he was employed in the year 1978 and worked till 1988 continuously whereas the management contention is that he was engaged in 1983 and worked till 1988 intermittently and had not worked 240 days in twelve calendar months preceding the date with reference. The management submits that he did not come within the purview of continuous service of one year and his termination by the management was justified.

7. Now let us examine the evidence adduced by the parties. The workman Biharlal has stated in his evidence that he was appointed as Local labour for driving motor in the year 1978 and worked till 1988 continuously. He has filed the letter 546/4/E-1/8-1 dated 25-4-1984 which is admitted by the management and is marked as Exhibit W/4. The letter shows that he was selected on test and interview by the Board as Motor Driver on local rate of Rs. 15.85 fixed by the Collector, Gwalior. This shows that he was daily rated employee and was not on permanent employment. The workman has filed a certificate which is admitted by the management and is marked as Exhibit W/1. The certificate shows that he worked from 1978 to 1980 with broken period not exceeding two months or so at a time. The certificate further shows that he was local labour and was not in continuous employment on daily wages. The

workman has filed photocopies of the muster rolls which are admitted by the management and are marked as Exhibit W/2. The muster rolls are of the period of 1/83 to 12/83 for 267 days, 1/84 to 12/84 for 359 days, 1/85 to 6/85 and 9/85 to 12/85 for 253 days, 1/86 to 12/86 for 330 days, 1/87 to 5/87 for 133 days and 1/88 to 6/88 for 180 days only. This shows that twelve months preceding the date of reference he had worked only for 180 days. It is evident that the workman was not in continuous service for a period of one year within the meaning of clause 25B (2) of the Act, 1947. He is not to be treated as retrenched employee.

8. The workman has filed movement orders which are also admitted and are marked as Exhibit W/3 to W/3/C. These movement orders show that during course of employment, he was ordered to move from one camp to another. These documents do not show that he was in permanent employment because the engagement letter (Exhibit W/4) clearly shows that he was daily rated employee. Exhibit W/5 is the letter of Asstt. Surveyor General, Dehradun which is also an admitted document. This letter shows that the Workers' Federation had raised question for his employment but after consideration it was decided that his employment was on temporary/casual basis. These documents are not helpful to the workman and it does not comply the provision of Section 25B(2) of the Act, 1947.

9. On the other hand, the management has examined Shri Surender Prasad who is Officer Supervisor. He has stated that the workman was employed as local Motor Driver on daily rated basis fixed by the local authority. He has stated that Shri Bhaiyalal and Shri Vishwanath Paswan were appointed according to Central Government Central Rules by departmental procedure by the Board on regular post whereas he was engaged on daily rated basis. He has further stated that Shri Lallu Kol was appointed by the Director in accordance with Recruitment Rules. His evidence clearly shows that others were appointed in accordance with Recruitment Rules against regular posts whereas he was employed as daily rated employee. As such his employment cannot be equated with the employment of other above named workers. Considering the discussion made above, it is clear that he was not in continuous service for a period of one year during twelve calendar months preceding the date with reference and therefore the provisions of Section 25-F and 25-N of the Act, 1947 are not violated. I find that the action of the management in terminating the service of the workman is justified. This issue is decided in favour of the management and against the workman.

10. Issue No. III

On the basis of the discussion made above, it is clear that the workman is not entitled to any relief. Accordingly the reference is answered.

11. In the result, the award is passed without any order to costs.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1122.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हैवी व्हिकल फैक्ट्री के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 81/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-14011/9/2000-आईआर (डीयू)]
जोहन तोप्नो, अवर सचिव

New Delhi, the 29th March, 2011

S.O. 1122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 81/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Heavy Vehicle Factory and their workmen, which was received by the Central Government on 29-3-2011.

[No. L-14011/9/2000-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 21st March, 2011

PRESENT: A. N. JANARDANAN, Presiding Officer
INDUSTRIAL DISPUTE No. 81/2000

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Heavy Vehicles Factory, Avadi and their Workmen]

BETWEEN

Sri A. Kajendran : 1st Party/Petitioner

Vs.

The General Manager, : 2nd Party/Respondent
Heavy Vehicles Factory,
Avadi,
Chennai.

APPEARANCE:

For the Petitioner : M/s. K M./Ramesh, K.
Vishwanatha and A. N.
Kumar, Advocates

For the Management : Sri K. M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide its Order No. L-14012/9/2000-IR(DU) dated 31-07-2000 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the termination of Sri A. Kajendran, Civilian Motor Driver from employment by the Management of Heavy Vehicles Factory, Avadi is legal and justified?” If not, to what relief the workman is entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as I. D. 81/2000 and issued notices to both sides. Both sides entered appearance through their advocates and filed their Claim and Counter Statement as the case may be.

3. The I. D. was enquired into by my learned predecessor marking Ex. W1 to Ex. W10 on the petitioner's side and Ex. M1 to Ex. M7 on the Respondent's side. By memo filed by the Management reporting the domesticle enquiry to have been given up and seeking permission to let in evidence to prove the charges, allowing the prayer Management examined 8 witnesses and further marked Ex. M8 to Ex. M18 followed by petitioner examining himself as WW1 and marking further documents as Ex. W11 and Ex. W12. After hearing arguments on either side as per award dated 2-04-2003 it was held that petitioner/workman is not entitled to any relief.

4. Aggrieved by the award in Writ Petition No. 25171/2003 before the High Court of Madras as per order dated 10-08-2010 the matter was remitted back to this Tribunal after setting aside the impugned award dated 2-04-2003 for reconsideration of entire gamut of the matter and to dispose of the same.

5. As per order dated 4-02-2011 in Writ Appeal No. 1001/2010 the Division Bench of the Madras High Court in allowing the Writ Appeal set aside the order of the single judge whereby the High Court further modified the punishment as one for reinstatement without backwages permitting the appellant to count the period from the date of removal from service till the date of reinstatement for the purpose of computing his length of service for calculation of pensionary and other retirement benefits alone.

6. The case of the petitioner in the Claim Statement in a nutshell is that he was charged of having assaulted one Sri S. Ambikapathy, a former civilian motor driver on 28-02-1997 at about 09.15 hrs. which is denied to have taken

place. In an enquiry not held properly he was found guilty and he was removed from service w.e.f. 18-07-1998. The finding is perverse. An I.D. was raised under which the reference occasioned. He claims the punishment to be set aside as being not justified with reinstatement with all benefits.

7. A substance of the counter statement averments is as follows:

Petitioner was removed from service on disciplinary grounds and not as a retrenched workman after enquiry. He has been meted out with previous punishments for various misconducts. There was a complaint that he assaulted Ambikapathy. The enquiry was held properly. Finding is just and fair and is not perverse. The claim is to be dismissed.

8. The I.D. was enquired into by my learned predecessor marking Ex.W1 to Ex.W10 on the petitioner's side and Ex.M1 to Ex.M7 on the Respondent's side. By a memo filed by the Management reporting the domestic enquiry to have been given up and seeking permission to let in evidence to prove the charges, allowing the prayer Management examined 8 witnesses and further marked Ex.M8 to Ex.M18 followed by petitioner examining himself as WW1 and marking further documents as Ex.W11 and Ex.W12. After hearing arguments on either side as per award dated 02-04-2003 it was held that petitioner/workman is not entitled to any relief.

9. Now as it is the remittance of the I. D. to this Tribunal by the decision of the single Judge of the High Court as mentioned above standing set aside and the punishment also standing modified as one for reinstatement without back wages with entitlement to the workman to count the period from the date of removal till date of reinstatement for the purpose of computing his length of service for calculation of pensionary and other retiral benefits and the petitioner's counsel having filed a memo before this Tribunal regarding the outcome of the Writ Appeal as above further pointing out that there is no need for further proceeding with the matter with a prayer to close the proceedings, recording the memo it is only to be ordered that the I. D. be closed.

10. In the result the I. D. is closed. No order as to costs.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st March, 2011)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 29 मार्च, 2011

का.आ. 1123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑल इंडिया रेडियो के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 192/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-42012/38/1999 आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 29th March, 2011

S.O. 1123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.192/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of All India Radio and their workman, which was received by the Central Government on 29-3-2011.

[No. L-42012/38/1999-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SRI RAM PARKASH, HJS PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial dispute No. 192 of 1999

Between

Sayed Nasir Hussain,
C/o Sri K K Misra, House No.299,
Barra Section 2,
Kanpur.

And

The Station Director,
All India Radio,
Kanpur.

AWARD

1. Central Government, MoL, New Delhi vide notification No.L-42012/38/99 IR (DU) dated 30-07-99 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of All India Radio in terminating the services of Sh. Shyed Nasir Hussain is legal and justified? If not to what relief the concerned workman is entitled?

3. Brief facts are that it is alleged by the claimant that he was appointed by the opposite party on 24-10-86 for the post of Typist. Before appointment he has appeared for the written test on 22-09-86 and thereafter he appeared in the interview and after selection he was appointed at the said post by the opposite in the pay scale of Rs.260-6-290-400 and an appointment letter was issued to him. During service he has been continuously in the employment of the opposite party right from 24-10-86 to 15-05-87, 18-05-87 to 30-05-87, 01-06-87 to 18-06-87, 19-06-87 to 06-07-87, 07-07-87 to 24-07-87, 25-07-87 to 13-08-87, 17-08-87 to 02-09-87 and 04-09-87 to 23-09-87. Whatever the gap has been shown was an artificial break with a malafide motive by the opposite party. Despite he has worked for more than 240 days in a calendar year without any break. But the opposite party without giving him any notice or notice pay has retrenched the services of the claimant on 23-09-87 which is nothing but a glaring example of unfair labour practice and thus is violative of the provisions of section 25F of the Industrial Disputes Act, 1947. He has also alleged that the work of the post of typist is of the permanent nature. Junior to the claimant are still working with the opposite party and the opposite party has also inducted fresh recruits after his illegal termination but the opposite party has not provided the applicant for his reemployment. It has also been pleaded by the workman that during the course of his employment with the opposite party his services always remained satisfactory and he left no room for any kind of complaints at the hands of his superiors. He was never subjected to any disciplinary action during the period of his employment with the opposite party. After the removal of his services he approached the employer for his engagement/appointment but the employer did not pay any heed to his request. Being aggrieved he filed a case before Central Administrative Tribunal in the year 1987 which was decided on 09-11-96. It was held that the claimant may approach the appropriate forum. Soon after the decision of the Central Administrative Tribunal, Allahabad, he approached before the conciliation officer under the provisions of Industrial Disputes Act, 1947. After receipt of the conciliation report the appropriate government has referred the matter to this tribunal for proper adjudication on merits of the case. It is stated by the claimant that after removal from the service he tried his level best to secure some alternate job/employment for his survival but he could not get success and still he is unemployed. It is further alleged by the claimant that the method adopted by the opposite party to remove him (applicant) from the service of the opposite party with effect from 24-09-87 is nothing but an act of unfair labour practice as defined under the provisions of the Industrial Disputes Act, 1947.

4. Therefore, he prayed that that an order of oral termination of the services of the applicant passed by the opposite party with effect from 24-09-87 be termed as illegal retrenchment in violation of the provisions of Section 25F, 25G and 25H of the Act, and he should be reinstated with arrears of back wages, seniority and all consequential benefits.

5. Opposite party has filed their written statement wherein they have vehemently opposed the contention of the claimant on a number of grounds, inter-alia that the claimant was not employed or appointed against any regular post. According to necessity the work was taken from him. He has never completed 240 days in service by the opposite party, but the allegation regarding unfair labour practice or otherwise levelled against them are baseless. Regarding the facts that the claimant had been unemployed after his removal, opposite are not in a position to say anything. These facts are just to give color to the case. Again it is said, that the claimant was a casual worker and engaged according to the necessity of the work and was removed when there was no work. Therefore, they have prayed that the claim of the claimant be rejected.

6. Claimant has also filed rejoinder but nothing new has been detailed therein.

7. Both the parties have filed oral evidence as well as documentary evidence. Whereas claimant has adduced himself as a witness W.W.I, from the side of the opposite party one Sri Vinod Kumar Assistant Director, as M.W.I.

8. I will discuss all the documents at the time of analyzing the evidence adduced in the case.

9. Heard and perused the record.

10. Claimant has filed original appointment letter a photocopy of which has already been filed which have been proved by the claimant in evidence. This is also admitted by the opposite party.

11. After discussing the evidence the only short point is to be decided in this case is whether the appointment of the claimant was on contractual basis as alleged by the authorized representative of the opposite party in the arguments.

12. To reach to the conclusion I would like to reproduce the contents of the appointment letter dated 24-10-86 which have been admitted by both the parties. The content of appointment letter are as under —

Sri Sayed Nasir Husain so of so and so resident of so and so is hereby appointed as clerk Grade -II (Adhoc) at this station on a purely temporary capacity with effect from 14-10-86 (fore noon) on initial pay of Rs.260/- per month in the scale of pay Rs. 260-6-400 plus other allowances as admissible under the Central Rules.

His services can be terminated at any time without any notice and without assigning any reason to him. He will not be entitled for regular appointment.

Sd/- Assistant Station Engineer

13. Going through the content, it is clear that the claimant has been granted a regular scale of 260-400 plus other allowances as admissible under Central Government Rules. He is also appointed as clerk grade-II (Adhoc) on a temporary basis. If such is the language then it is difficult to infer that the claimant was appointed on a contractual basis for a particular period. There was no such fixed period in the appointment letter. His services would have continued for years together. It shows that the intention of the employer was to grant temporary service and it may be presumed likely to continue.

14. Moreover claimant has adduced in evidence that the job was of a permanent nature and the work was sufficient and it is also pleaded that after his removal a new recruitment was made by the opposite party. There is no specific denial on this point of the opposite party either in the written statement or in the evidence adduced by the employer. In the examination in Chief M.W.I has stated that according to necessity again engagement was made. It has been admitted in their chief by M.W.I that when there was a regular appointment of the staff then those persons who were engaged on casual contract basis were removed, as there was no necessity. I think the provisions of Industrial Disputes Act, 1947 does not make any difference between a casual labour temporary employee and a regular employee. If any right has been accrued to any workman under the provisions of the Act, then his services cannot be removed unless the provisions of section 25F which are mandatory in nature are followed. W.W.I has specifically stated that he had worked for more than 240 days in a calendar year preceding the date of his termination. He has also given the details of the working days in the pleading and in the evidence which comes to almost a year. He stated that he worked under the opposite party no. 2 from 24-10-86 to 15-05-87, 18-05-87 to 30-05-87 01-06-87 to 18-06-87, 19-06-87 to 06-07-87 07-07-87 to 24-07-87, 25-07-87 to 13-08-87 17-08-87 to 02-09-87 and 04-09-87 to 23-09-87. Whatever the gap has been shown, it appears to me that it is an artificial break and there was a permanent need for a whole year. Just to create a gap of one or two days, it was created. a gap, which does not appear to be so genuine. Now it has been proved that he has worked for more than 240 days, therefore, a right has accrued to him under section 25F of the Industrial Disputes Act, 1947. Section 25F provides no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a). The workman has been given one month's notice in writing indicating the reason for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice.

(b). The workman has been paid at the time of retrenchment compensation which shall be equivalent to 15 days average pay

(c). Notice in the prescribed manner is served on the appropriate government.

15. It is clear that opposite party has not followed any of the condition precedent to the retrenchment; therefore, there is a breach of provision of Section 25F of the Act. Opposite party has violated the provisions of Section 25F of the Act.

16. Claimant has filed the entire document in original as well as "in the shape of photocopies of the documents ranging from Ext. W-1 to W-17. These records pertain to the opposite party. Photocopies of the most of the documents have also been filed by the opposite party which shows the working period and the emoluments received by the claimant. Appointment has not been disputed by the opposite party. It has not been established by the opposite party that the appointment was on a contractual basis for a limited period. Therefore, the evidence adduced by the claimant documentary as well as oral appears to be believeable. When M.W.I was cross examined, at one time he stated that there is no provision of keeping casual contractual employee in the department. If it is to be believed for a moment even then it will be presumed that the employee was engaged on ad-hoc or temporary basis and not on contract basis.

17. Claimant has stated on oath in his evidence that after his removal he made his best efforts to get some job but due to over age he could not get any job. Nothing has come out in his cross examination on this point. Opposite party has also not stated anything on this point. There appears to be a reason to believe his statement on this point. Therefore considering the facts and circumstances of the case I am of the view, that the claimant is entitled to be reinstated in the service of the opposite party with back wages.

18. Claimant has alleged even an employee was appointed either on ad-hoc or temporary basis on a regular pay scale as admissible to central government employee he can only be removed by following the prescribed procedure but there was no complaint against the employee, hence in such circumstances it cannot be held that the termination of the applicant was just and bonafide. Therefore, the action of the management is not found to be just and bonafide. Claimant has been able to prove his case; therefore, the claim is decided in favour of the claimant.

19. Reference is answered accordingly in favour of the claimant against the opposite party management of All India Radio, Kanpur.

RAM PARKASH, Presiding Officer
नई दिल्ली, 29 मार्च, 2011

का.आ. 1124.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक

अफ़ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/179/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/274/1999-आई आर (बी-II)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1124.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. CGIT/NGP/179/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workman, which was received by the Central Government on 29-3-2011.

[No. L-12012/274/1999-IR (B-II)]
RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE SHRI J. P. CHAND, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/179/2000

Date: 17-03-2011

Party No.1 : The Regional Manager,
The Central Bank of India, Regional
Office, Victoria Building, Kamptee
Road, Nagpur.

Versus

Party No.2 : Shri Rajesh B. Athwale,
R/o Kawdas, Post-Kawdas,
Tah. Hingna, Nagpur.

AWARD

(Dated: 17th March, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Bank of India and their workman, Shri Rajesh B. Athwale for adjudication, as per letter No.L-12012/274/99-IR(B-II) dated 16-06-2000, with the following schedule :—

"Whether it is a fact that Shri Rajesh S/o She Bhojraj Athwale has been engaged as a Sub-staff on temporary/Part-time basis by the management of Central Bank of India during the period from 26-10-1991 to 15-3-1999? If so, whether the action of the management in terminating the services of the disputant is legal and justified? If not,

justified, what relief is the disputant concerned entitled to?"

"Whether the action of the management to engage a large number of persons to work for short period of time one after the another, instead of filling up the vacancies on regular basis, is legal and justified? If not, what directions are necessary in the matter?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri Rajesh B. Athwale ("the workman" in short) filed his statement of claim and the management of Central Bank of India ("the Party No.1" in short) filed its written statement.

3. The case of the workman as projected in his statement of claim is that he was appointed by the management of Party No.1 on 26-10-1991 and worked continuously as a "Safai Karmachari" till 15-3-1999, and on 15-3-1999, his service was terminated by an oral order by the Party No.1 and his entire service tenure was clean and unblemished and he was never served with any memo, charge sheet or show cause notice. It is further pleaded by the workman that though he worked continuously with Party No.1, from 26-10-1991 till 15-3-1999, the Party No.1 manipulated its own record and paid his salary by entering fake names in the muster roll and Party No.1 used to pay him salary in the names of S/Shri Hansraj Katnichan, Ramesh Moon, Dilip Athawale, Dilip Gawande, Dilip Iwanate, Baban Uike, Dilip Dhurve, Tukaram Choudhari, Vithal Tekam, Rajesh Athwale, Nitesh Chandankar and Indrapal Nikeshwar etc., who had never worked with the Party No.1 and the Party No. 1 adopted such unfair labour practice, with a view to avoid his claim for permanency and the Party No.1 discontinued his service without complying the mandatory provisions of Section 25-F and 25-G of the Industrial Dispute Act and no notice of dismissal or retrenchment compensation was given to him by the Party No.1, before termination of his service and the Party No.1 also did not pay him the salary in accordance with the provisions of Minimum Wages Act. The workman has prayed to quash and set aside his oral termination order dated 15-3-99 and to reinstate him in service, with continuity and payment of full back wages and the arrear back wages.

4. The Party No.1 in its written statement, denying the allegations of the workman, has pleaded inter-alia that the workman was not appointed by it on 26-10-1991 as a "Safai Karmachari" and he was not working continuously from 26-10-1991 to 15-3-1999 and the workman worked as a temporary part time Safai Karmachari with it at. Kawdas branch, as and when required, depending upon the exigency of work and he worked for 26 days in July, 1993, 19 days in March, 1995, 25 days in December, 1996, 23 days in March, 1997, 23 days in April, 1998 and 22 days in October, 1998 and the workman was never in continuous employment from 1991 to 1999 and he had not worked with it prior to

July, 1993 and the workman was never treated as a regular employee of the Bank and he was always given to understand by it that he was being engaged temporarily and rendering such services would not make him entitled to any benefits what-so-ever at par with other regular employees and for the said reason, the workman never disputed the fact that he was a temporary part time "Safai Karmachari" and it had a right to engage him in such capacity as and when required and the workman rightly accepted the terms and conditions of his temporary services and had not challenged his earlier terminations, which had taken place in July, 1993, March, 1995, December, 1996, March, 1997, April, 1998 and October, 1998. It is further averred by the Party No. I that it is a Nationalized Bank and is a Government of India undertaking and it has to work within the four corners of various directives received from Central Government and the carpet area of Kawdas Branch of the Bank is about 400 sq. feet and the workman was paid proportionate wages by the Bank for whatever services he had rendered in the said branch and as such, the allegations that the management manipulated its record by inserting fake names in the muster/attendance register are false and as the workman was engaged on temporary basis as and when required and he had never completed 240 days of continuous service as required for application of the provisions of Section 25-F, the provisions of Section 25-F and Section 25-G of the Act are not applicable to his case and the workman is not entitled for any relief.

5. In support of their respective claims, both the parties have adduced oral evidence besides relying on documentary evidence. The workman besides examining himself has examined three other witnesses, namely S/Shri Indrapal Prabhuji Nikeshwar, Nitesh Sheshrao Chandankar and Dilip Indarao Dhurbe. Four witnesses namely, S / Shri Roshan Namdeo Meshram, Haribhau Rajaramji Dhahake, Deorao Mahadeorao Ingale, who were working as Branch Managers at Central Bank of India, Kawdas Branch and Ramdas Pundlikrao Thakre have been examined on behalf of the management.

6. At the time of argument, it was submitted by the learned advocate for the workman that though the workman was working continuously from 26-10-1991 to 15-3-1999 as a Safai Karmachari, on papers, the Party No. I had shown others to be working in the Bank, but actually paying the wages to the workman and the management discontinued the service of the workman without complying the mandatory provisions of Section 25-F and 25-G of the Act and the Party No. I adopted unfair labour practice only to avoid the claim of the workman to make him permanent and as such, the workman is entitled for reinstatement in service with full back wages and continuity of service. In support of the contention, the learned advocate for the workman placed reliance on the decision report in 1998 (SCC) (L&S) 170 (Ratan Singh Vs. Union of India and others). In the said decision, the Hon'ble Apex Court have enunciated the

principles that daily wager is also entitled for the protection under Section 25-F of the Act. So keeping in view the principles enunciated by the Hon'ble Apex Court in the above decision, the present case at hand is to be considered.

7. The learned advocate for the management in reply submitted that it is clear from the materials on record that the workman was working as a temporary and part-time Safai Karmachari, as and when required, depending upon exigency of work and the workman worked for 26 days in July, 1993, 19 days in March, 1995, 25 days in December, 1996, 23 days in March, 1997, 23 days in April, 1998 and 22 days in October, 1998 and except those periods, the workman was not employed by the Bank and the witnesses examined on behalf of the Bank in their evidence have stated categorically about such engagement of the workman and there is nothing in their cross-examination to disbelieve them and the witnesses examined on behalf of the workman cannot be believed, in view of the materials on record and two out of the three independent witnesses were only 5 and 3 years old in 1991, but they have stated that the workman was engaged by the Bank from 1991 to 1999 and as such, the falsity of the stands taken by the workman is apparent on the face of record and the evidence cannot be accepted.

8. In view of the plea taken by the workman that he was working with the Party No. I continuously from 26-10-1991 to 15-3-1999 and the denial of the Party No. I about the same, the burden is on the workman to prove that he was working from 26-10-1991 to 15-3-1999 continuously or at least for a period of 240 days during the period of 12 calendar months preceding the date with reference to which calculation is to be made i.e. 15-3-1999, So as to attract the provisions of section 25-F and 25-G of the Industrial Disputes Act.

9. To prove that he was working continuously from 26-10-1991 to 15-3-1999, besides examining himself, the workman has examined three more witnesses and has also filed the xerox copies of the daily wages payment book and register maintained by the Bank regarding the engagement of the worker in Kawdas Branch and some other documents. However, reliance cannot be placed on the oral evidence of the workman himself and his three other witnesses, in view of the documentary evidence produced by the workman himself. The workman and the three other witnesses examined on his behalf have stated that though the workman worked as a part-time Safai Karmachari from 26-10-1991 to 15-3-1999, the Bank on papers showed others to have been engaged including the three witnesses examined on behalf of the workman but paid the wages to the workman. Out of the three witnesses, the witness, Shri Indrapal and Shri Nitesh are minors and according to their own statement, Indrapal was 5 years of age and Nitesh was 3 years of age in 1991 and as such, their evidence that

though the workman was engaged from 26-10-1991 to 15-3-1999 continuously, cannot be believed. It is also necessary to mention here that though the workman has taken the plea in his statement of claim that he worked with the Party No.1 continuously from 26-10-1991 to 15-3-1999 and the Party No.1 showed on paper regarding, engagement of others and made payment of wages to him, he had not taken such plea, when he raised the dispute by filing an application before the Assistant Labour Commissioner (Central). The copy of such application has been filed by the workman on record but the same does not contain such an allegation. It is found from the material on records that the management filed its comments to the petition filed by the workman before the ALC stating that the workman worked as a part-time Safai Karmachari, as and when required and also gave the total number of the working days. Therefore, the workman submitted his reply to the comments of the Party No.1 and in that reply also he did not take such a stands. Rather in his reply to the comments, he had taken the stands that he worked continuously from 26-10-1991 to 15-3-1999 and Party No.1 though paid the wages on many occasions, never took his signature on any voucher or register, only to deprive him from permanent status and at times Party No.1 was taking his signatures on the register, without giving any proper explanation and understanding to him. However, it is found from the report submitted by the Assistant Labour Commissioner to the Central Government that during the conciliation proceeding, when the Party No.1 claimed that the workman worked only for few days as and when required from 1993 to 1998 and had never completed 240 days of work, the workman orally submitted about the Party No.1 showing engagement of others on papers and paying wages to him. It is also found from such report that the workman had not taken the name of Shri Indrapal and Shri Nitesh at that time.

Besides the above facts, the documents filed by the workman completely believe his claim that he worked continuously from 26-10-1991 to 15-3-1999. The copies of the daily wages book of the Party No.1 filed by the workman himself, show that number of persons including the workman were engaged by the Party No.1 during the period from 31-3-1992 to 30-10-1998 and their names, duration of their engagement and the amount of wages paid to them have been mentioned in such documents. Likewise, copies of the documents maintained by Party No.1 regarding engagement of casual workers regarding the period of their appointment and amount of money paid to them also shows that number of persons including the workman were engaged by the Party No.1 from 4-1-1992 to 16-11-1998. The workman has also filed xerox copies of the vouchers regarding payment of wages to the casual labours, engaged by the Party No.1. Those documents also show that number of persons were engaged by the Party No.1 including the workman from 4-1-1992 to 16-11-1998 and the workman was not engaged continuously from 26-10-1991 to 15-3-1999.

The workman has also filed xerox copies of some documents and applications submitted by him for his regular engagement with the Party No.1. It is found from the said documents that vide letter BM/97-98/No. 511 dated 19-6-1997, the Branch Manager of Party No.1 submitted informations regarding the workman including the period of his engagement in the Bank to the PPS Department, Regional Office, Nagpur, on which date admittedly there was no dispute between the workman and the Party No.1 and in that letter, it has been specifically mentioned that the workman worked for 26 days in July, 1993, 19 days in March, 1995, 6 days in January, 1996, 25 days in January, 1997 and 23 days in April, 1997. The documents filed by the workman clearly show that the workman did not work continuously from 26-10-1991 to 15-3-1999 with the Party No.1 or that he worked for 240 days preceding the 12 calendar months from 15-3-1998. In view of the documentary evidence as mentioned above, no reliance can be placed on the oral evidence of the workman and his three witnesses that the workman worked continuously from 26-10-1991 to 15-3-1998. It is also found that the three Branch Managers, who were working in Kawdas Branch from 1991 to 1998 have categorically stated that the workman was engaged as a part-time Safai Karmachari as and when required and he was not working continuously from 26-10-1991 upto 15-3-1998. As the workman has failed to prove that he worked continuously from 26-10-1991 up to 15-3-1998 or that he worked for 240 days preceding the 12 calendar months upto 15-3-1998, the provisions of Section 25 F and 25-G are not applicable in this case. It will also not be out of place to mention here that in the reference itself, the Government has referred to give findings as to whether; "the action of the management to engage a large number of persons to work for short period of time one after the another, instead of filling of the vacancies on regular basis" is legal and justified, which shows that the Government was also of the opinion that number of persons were engaged by the Party No.1 for short period of time one after the other, which goes against the claim of the workman that he worked for continuously from 26-10-1991 to 15-3-1998. Hence, it is ordered:

ORDER

That the workman, Shri Rajesh Bhojraj Athwale though was engaged as a casual labour as and when required by the Party No.1, he was not engaged by the management for the period from 26-3-1991 to 15-1-1999 continuously and the action of the management in terminating the services of Shri Rajesh is legal and justified. The workman is not entitled for any relief. The action of the management to engage a large number of persons to work for short period of time one after the other, instead of filling up the vacancies on regular basis is also not legal and justified. The management is directed to take necessary action to fill up the vacancies on regular basis, if such vacancies are still there.

J. P. CHAND, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1125.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 50/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-12011/31/2007-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1125.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workman, received by the Central Government on 29-3-2011.

[No. L-12011/31/2007-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 21st March, 2011

Present : A. N. JANARDANAN, Presiding Officer
Industrial Dispute No. 50/2007

[In the matter of the dispute for adjudication under clause(d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of Central Bank of India and their workman]

BETWEEN

The General Secretary : 1st Party/Petitioner
Central Bank of India
Staff Union
89, Aziz Mulk, 3rd Street,
Thousands Lights
Chennai-600006.

And

The Regional Manager : 2nd Party/Respondent
Central Bank of India
Regional Office
14-15 Variety Hall Road
Combatore.

APPEARANCE :

For the 1st Party/Petitioner : M/s. K.M. Ramesh & Co. Advocates

For the 2nd Party/Management : M/s. T. S. Gopalan & Co., Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12011/31/2007-IR(B-II) dated 3-9-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action by the management of Central Bank of India in denying the post of Computer Terminal Operator to Sri B. Rangaraju, Agricultural Assistant is legal and justified? If not, to what the workman is entitled?”

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 50/2007 and issued notices to both sides. Both sides entered appearance through their Counsel and filed Claim, Counter and Rejoinder Statements as the case may be.

3. The averments in the Claim Statement bereft of unnecessary details are as follows :

Sri B. Rangaraju appointed as Agricultural Assistant under the Respondent Bank's Divisional Office at Sathanur Branch as per order dated 27-7-1982 had been discharging his duty ever since 4-8-1982. He was a candidate selected for the post of Agricultural Clerk in Clerical Cadre. He had not applied for appointment under any specialist category in Clerical Cadre. The Second Party collected from him an application for the post of Agricultural Assistant. So much so his pay package and other perquisites were governed by Bipartite Agreement and service conditions by promotion policy agreement of 2nd Party which is biased and prejudicial to a particular section of workers. There is no classification among clerical cadre members as specialist cadre or ordinary cadre. It is only with regard to payment of special pay payable to Clerks. Respondent had classified Agricultural Assistant in Clerical Cadre as specialist category for promotion to Agricultural Finance Officer in specialist category of Officers. As per norms Agricultural Assistants with 3 years service in Clerical Cadre were eligible for promotion to Agricultural Finance Officers under agreement dated December, 1970. Under the same Agricultural Finance Officers with 2 years service were eligible to become Branch Managers of small branches. The employee has not opted for specialist category. Management has no right to deprive him fundamental right for posting with Special Pay. Management was partisan towards some staff in Clerical Cadre quoting stale and outdated agreements. The employee has acquired requisite qualifications and experience to work in position attracting Special Pay but is deprived of promotional opportunity.

solely because Agricultural Assistant was wrongly notified as specialist category in Clerical Cadre in sheer discrimination between the best among equals. As per the provision detrimental to the so-called specialist category under promotion policy 2.2.6 such as "a Clerical Staff transferred/converted from specialist category to mainstream in accordance with the rules provided for the purpose, must have put in at least 24 months service in the mainstream reckoned from the date of transfer/conversion from specialist category, for inclusion of his name in the seniority list, if otherwise eligible for the same". The erroneous interpretation of the promotion policy agreement of December, 1970 by the Management deprived legal and just improvements in his officialdom. He is made a scapegoat of internal understanding between the Management and the Trade Union. As informed to the concerned employee the post of Agricultural Assistant stands abolished w.e.f. 1-8-2007. Consequently the employee shall stand converted as Clerk in the mainstream w.e.f. 1-8-2007. As a sequel a Special Pay paid to him as Agricultural Asstt. shall be stopped w.e.f. 1-8-2007 and the concerned employee shall be eligible for posting as Computer Terminal Operator, Head Cashier, etc. after completion of the cooling period under the agreement. Management has unilaterally changed the designation removing the Special Pay and arbitrarily deciding the factors that too after the cooling period violating fundamental rights of the employee. Denial of Computer Terminal Operator post is arbitrary, unjust and discriminatory. Hence the claim.

4. Counter Statement contentions bereft of unnecessary details are as follows :

There is no valid Industrial Dispute raised by a seemingly authorized Union. Management has made settlements with All India Central Bank Employees Federation among other matters on promotion policy on 30-1-1970 modified on 20-12-1975, 2-1-1983, 3-9-1998, etc. and with another settlement was reached on 29-5-2000. Para-2.2.4 of Chapter-II of Part-A provides for Seniority List containing names of Clerical Staff in the mainstream only including Head Clerks "B", Tellers, Computer Terminal Operators, Typists-cum-Clerks, Steno-cum-Clerks, Telex Operator-cum-Clerks, Telephone Operator-cum-Clerks and those with combined designation including that of Clerk. It excludes special clerks subject to the condition that the Clerical Staff transferred or converted from specialist category to mainstream must have put in 24 months service in the mainstream for inclusion in the seniority list, if otherwise eligible. Under Part 3-III of Chapter-3 as and when need arises for selection of Computer Terminal Operator application is called for from Clerical Staff not drawing Special Pay or drawing Special Pay lower to that of Computer Terminal Operator in the same stand with completed 1 year of confirmed service. The employee was recruited as Agricultural Clerk and was working as such. His duties are to assist in the bank's lending or operations for agricultural development, etc. When the post of

Computer Terminal Operators was to be filled-up he was not a mainstream Clerk and was only an Agricultural Clerk in the specialist category. He was not eligible for the post and holding so is not an unfair labour practice. Accepting appointment as Agricultural Clerk he cannot seek promotion in the mainstream. Classification of clerks is an internal matter and the promotion policy agreement was based on that. Reference to BSRB notification would not advance the case of petitioner. Post of Computer Terminal Operator is meant only to mainstream and not to specialist clerks. The issue under consideration relates to the year 2005 and reference to subsequent events is outside the scope of reference. The petitioner is eligible for the post of Agricultural Finance Officer and in which process for promotion he emerged successful but his promotion was annulled for want of completion of verification of his Community Certificate by the District Level Vigilance Committee, Salem. There is no merit in his claim and the same is to be rejected.

5. Rejoinder allegations in a nutshell are as follows :

The cause was espoused by a substantial section of workman. Settlement does not provide distinction between mainstream and specialist. They are basically clerical cadre employees and not specialist cadre employees but Special Pay is being paid for discharge of duties carrying special pay. Promotion Policy Agreement does not suggest that seniority of clerical employees is to consist of only mainstream clerks. Appointment order would reveal that post of Agricultural Assistant was not a special category but only Clerical Cadre. Under Promotion Policy Agreement Clerical Staff who are not drawing Special Pay or drawing Special Pay lower to that of Computer Terminal Operators are eligible to apply. When in 2005 he was asked to work as Computer Terminal Operator on leave arrangement basis he was paid the pro-rata difference of Special Pay of Computer Terminal Operator and Agricultural Assistants Special Pay by the Management. There is no mainstream or side stream employees as mischievously interpreted by the Management.

6. Points for consideration are:

- (i) Whether denial of the post of computer Terminal Operator to the employee as Agricultural Assistant is legal and justified ?
- (ii) To what relief the concerned employee is entitled ?

6. Evidence consists of the oral evidence of WW1 and Ex. W1 to Ex. W16 on the petitioner's side and that of MW1 and Ex. M1 to Ex. M6 on the Respondent's side.

Points (i) & (ii)

7. It is canvassed on behalf of the petitioner that while petitioner was recruited it was not specifically as Agricultural Assistant/Clerk as a specialist category. His claim for promotion as Computer Terminal Operator is

denied for the alleged reason that he is not under the mainstream of Clerks which alone is feeder cadre post for Computer Terminal Operator. Petitioner has had officiated as Computer Terminal Operator admittedly and he was allowed allowances for the said officiating job. He is not actually a recruit under a specialist category and so he is entitled to the post of Computer Terminal Operator. Petitioner falls within the eligible criteria as in Section-3.1 of Ex.W12. While there is higher rate of Special Pay for Computer Terminal Operator the rate of Special Allowance to Agricultural Assistant is lower. The petitioner is to be given promotion as Computer Terminal Operator.

8. Contentions raised on behalf of the Respondent are that the promotion to Computer Terminal Operator is on the basis of Promotion Policy Agreement. There is separate channel of promotion for Agricultural Assistant which is better in prospect. Petitioner was not in a mainstream work but is a specialist as per option exercised within 2 years. Actually the petitioner was promoted to a higher post on 14-5-2007 but due to want of Vigilance Verification Certificate he had to suffer. He cannot claim to have been an aspirant/applicant for general category clerks. He was only an Agricultural Clerk and appointed only so as Agricultural Assistant in Clerical Cadre. He has not been prejudiced at all in the matter of denial of promotion to the post in question.

9. Going by the documents it is clear that the petitioner has been appointed and treated as Agricultural Assistant in the category of Clerk and not as a mainstream Clerk. There is a Promotion Policy Agreement followed in the matter of promotion. As per the same the petitioner is not entitled for promotion to the post of Computer Terminal Operator for which one has to be in the feeder category of posts viz. mainstream Clerk. Though he happened to be posted to officiate with payment of pro-rata allowances thereof, that cannot blossom a right in his favour to claim a promotion to the post of Computer Terminal Operator which he is not in the direct line of promotion from the post to which he is borne. The classification when having been shown to be an internal one with the Management done not arbitrarily, it is only to be upheld and therefore the procedure followed by the Management and action taken by it are only to be upheld as valid and binding. Therefore the denial of the post of Computer Terminal Operator to the petitioner could only be said as legal and justified and it is so found. The petitioner is not entitled to any relief.

10. Thus the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st March, 2011).

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/ : WW1, Sri B. Rangaraju
Petitioner

For the 2nd Party/ : MW1, Sri P. Anto Paul
Management

**Documents Marked :
On the petitioner's side**

Ex. No.	Date	Description
Ex. W1	20-02-1982	BSRB Call Letter
Ex. W2	31-03-1982	BSRB Allotment Letter
Ex. W3	22-04-1982	Appointment intimation letter by Respondent/Management
Ex. W4	5-06-1982	Respondent/Management's Memorandum regarding Training
Ex. W5	23-06-1982	Appointment Order issued by the Respondent/Bank
Ex. W6	26-06-1982	Training Certificate issued by the Respondent/Bank
Ex. W7	29-05-2000	Chapter S-III—Procedure for Selection for CTCs
Ex. W8	2-6-2005	8th Bipartite Settlement—Special Pay Carrying Post/Duties
Ex. W9	7-7-2005	Respondent/Bank's Circular inviting application for CTO vacancies
Ex. W10	8-7-2005	Application submitted by Mr. Rengaraju for CTO post in response to Respondent/Bank's Circular
Ex. W11	29-07-2005	Petitioner's letter to RLC (C) on violation of Promotion Policy Agreement
Ex. W12	17-11-2005	Payment of difference in CTO allowance to Mr. Rengaraju
Ex. W13	10-5-2006	Petitioner's letter to Assistant Commissioner of Labour (Central) regarding denial of CTO post to Mr. Rangaraju.
Ex. W14	24-7-2006	Petitioner's letter to Assistant Commissioner of Labour (Central) regarding denial of CTO post to Mr. Rengaraju
Ex. W15	26-9-2006	Circular issued by the Second Party regarding promotion of Clerical Staff to Agriculture Finance Officer in JMG-I
Ex. W16	26-9-2006	Notice issued by the 2nd Party regarding promotion of Clerical Staff to Agriculture Finance Officer in JMG-I enclosing application form

On the Management's side :

Ex. No.	Date	Description
Ex. M1	29-5-2000	Memorandum of Agreement entered between Central Bank Employees Federation for the Award Staff and the Respondent —Extract of Page Nos. 1, 2, 3 and 8 (2.2.5(6) Promotion Policy Agreement
Ex. M2	25-10-2006	Application of B. Rengaraju for promotion to the post of Agricultural Finance Officer (AFO)
Ex. M3	5-4-2006	Respondent's reply to Regional Labour Commissioner (Central) on the claim of the Petitioner
Ex. M4	29-5-2006	Reply of the Respondent to the rejoinder of the Petitioner to Regional Labour Commissioner (Central)
Ex. M5	27-2-2007	Conciliation Failure Report of Assistant Commissioner of Labour(Central)
Ex. M6	4-1-2005	Zonal Office letter to R.M. Coimbatore clarifying the eligibility of Agriculture Assistant for the posting HC-E (Head Cashier E).

नई दिल्ली, 29 मार्च, 2011

का.आ. 1126.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 18/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/195/2003-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1126.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of The Regional Manager, BOB and their workman, which was received by the Central Government on 29-3-2011.

[No. L-12012/195/2003-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT LUCKNOW

PRESENT

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 18/2004

Ref. No. L-12012/195/2003 IR (B-II) dated : 09-02-2004

BETWEEN

Sh. Baljit Ram
Resident and Post Fafiganj
Distt. Ambedkar Nagar
Uttar Pradesh

AND

The Regional Manager
Bank of Baroda
Regional Office, 177/1, Lanka
Varanasi (U.P.)-221 005

AWARD

By order No. L-12012/195/2003 IR (B-II) dated : 09-2-2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Baljit Ram, Resident and Post Fafiganj, Distt. Ambedkar Nagar, Uttar Pradesh and the Regional Manager, Bank of Baroda, Regional Office, 77/1, Lanka, Varanasi (U.P.) for adjudication.

2. The reference under adjudication is :

“Whether the action of the management of Bank of Baroda, Refiganj Branch, Distt. Ambedkar Nagar in terminating Shri Baljit Ram, Temporary Peon from service is legal and justified? If not, what relief is the concerned workman entitled to?”

3. The case of the workman, Baljit Ram, in brief, is that he was offered employment as temporary Peon by the Branch Manager of the bank w.e.f. 24-6-1997, without any appointment letter and he worked as such till 13-6-2000 when his services have been terminated 'orally' without assigning any reason. He has further submitted that on raising the matter before Assistant Labour Commissioner (C), Lucknow, he was again allowed to continue the job but on 3-1-2003 again all of sudden his services were terminated orally without any notice or notice pay in lieu thereof as required under law. The workman submitted that he worked for full hours of work for which he was paid initially @ Rs. 30 per day and at the time of his termination he was paid @ Rs. 80 per day. Accordingly, the workman has prayed that his oral termination order dated 3-1-2003 may be set aside and he be reinstated with all consequential benefits, including back wages.

4. The management of the Bank of Baroda has disputed the claim of the workman by filing its written statement; whereby it has submitted that the workman was never appointed by the bank in any capacity what so ever, hence there arise no question of terminating his services at any point of time; rather the Branch Manager has no power or authority to appoint any person in sub-staff category in any capacity, including temporary or part time peon. Further, it has been submitted by the management that the appointment in the Bank are governed by certain Statutory Rules and guidelines issued by the Government of India according to which the appointment in sub-staff category can be made after calling names from the Employment Exchange and since the name, of the workman was never sponsored by the Employment Exchange, therefore, he cannot ask for employment with the Bank. It has further been submitted by the management that the workman was engaged only for highly intermittent casual labour on day to basis on daily wage basis only. Accordingly, the management has prayed that the claim of the workman be rejected without any relief to him.

5. The workman has filed rejoinder whereby he has only reiterated his averments in the statement of claim and has introduced nothing new.

6. The parties have filed documentary proof in support of their respective cases. The workman has examined himself whereas the management examined Shri K. S. Sihmaar, Sr. Manager and Shri J. P. Singh, Branch Manager in support of their respective stands. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral as well as written arguments.

7. Heard representative of both the opposite party and perused evidence on record.

8. The learned representative on behalf of the workman has contended that the workman had worked for more than 240 days in each calender year from 24-6-97 to 3-1-2003 continuously; despite this, his services have been terminated in violation of Section 25 F of the I. D. Act. The payment made to the workman was debited from sundry charges and there are number of documents to sustain his arguments. He has relied on (2006) 3 SCC 276 State of U.P. vs. Sheo Shanker Lal Srivastava & others.

9. The learned representative on behalf of the management has contended that the workman was never appointed as temporary peon by the Bank nor any appointment letter to the effect was issued to him and also the Branch Manager has no power to appoint any person on any post. It is further contended that so far as intermittent casual nature of work is concerned, the workman has not been able to prove that he has worked for 240 days in the year preceding the date of alleged date of termination. It has relied on :

- (i) 1997 (76) FLR 237 Himanshu Kumar Vidyarthi & others vs. State of Bihar & others.
- (ii) 2002 (93) FLR 179 The Range Forest Officer vs. S. T. Hadimani.
- (iii) 2008 (116) FLR 558 Junior Engineer, U.P. Jal Nigam, Construction Division, Mirzapur vs. Presiding Officer, Labour Court, Varanasi & others.
- (iv) 2006 (108) FLR 213 R.M. Yellatti vs. Assistant Executive Engineer
- (v) 2008 (116) FLR 565 M/s. Siel Limited vs. State of UP & others.

10. The workman, Baljeet Ram has examined himself as witness in support of his case; whereby he has stated that he is working in the Bank from 24-6-1997; moreover at one occasion he was terminated intermittently on 13-6-2000; but was re-engaged after one year in May, 2002 and since then he worked continuously for more than 240 days and his services were terminated without any notice or compensation on 3-1-2003. He has further stated that initially he was paid Rs. 30, which was gradually increased to Rs. 80 per day at last. In cross-examination the workman admitted that neither any vacancy was published nor he appeared in any test or interview nor any appointment letter was given to him; likewise he was not given any termination letter also. He also stated that he was appointed by Shri Hari Ram, Branch Manager for the first time and secondly; he was appointed by Shri V. K. Challu. The workman admitted that he did not use to get salary on monthly basis; instead he was paid according to his working on day to day basis and he did not put attendance on any attendance register was marked by him; and also, that he had no evidence regarding payments made to him @ Rs. 30 or Rs. 80. In support of his statement he had produced photocopies of following documents :

- (i) Letter dated 4-9-2001 regarding temporary workman in sub-ordinate cadre.
- (ii) Letter dated 8-10-2001 regarding engagement of part-time sweeper Mrs. Farid Ahmed and engagement of daily wager Mr. Baljeet Ram.
- (iii) Letter dated 11-10-2001 regarding engagement of part-time sweeper Mrs. Farid Ahmed and engagement of daily wager Mr. Baljeet Ram.
- (iv) Letter dated 18-12-2001 regarding information regarding daily, wages appointment of Mr. Baljeet Ram.
- (v) Employment card in respect of the workman.
- (vi) Letter dated 24-7-2002 regarding engagement of persons on daily wages.
- (vii) Letter dated 28-12-2002 regarding placement of Mr. K.L. Srivastava, Peon (Cash Peon).

- (viii) Letter dated 30-12-2002 regarding temporary sub-staff.
- (ix) Letter dated 3-1-2003 regarding placement of Mr. K.L. Srivastava, Peon (Cash Peon).
- (x) Letter dated 3-1-2003 regarding information regarding Peon and Sweeper in the branch.

11. In rebuttal, the opposite party has examined two witnesses viz. Shri K. S. Sihmaar, Sr. Manager and Shri J. P. Singh, Branch Manager. Shri K. S. Sihmaar (MW-1) has disputed the genuineness of the letters/documents filed by the workman and has stated that the Bank has prescribed rules for recruitment of class IV. The recruitment in sub-staff category is made after calling for names from Employment Exchange and conducting their interview. The appointment letter is issued to the candidates selected, after their interview, by the regional authority. He has further stated that in June, 97 the post of Peon was neither vacant nor any name was called from Employment Exchange nor any interview was conducted nor any appointment letter was issued; rather the workman has never been appointed in the Rafiganj branch in any capacity at any point of time. He has also stated that the Branch Manager of the Bank has no authority to appoint anyone and he might have engaged the workman, Baljeet Ram to carry, out casual work in personal capacity. He also denied of receipt of any letter as detailed in paper No. 15/2 to 15/14. He also stated that the casual labour and daily wagers are paid through voucher. In cross-examination, the MW-1 has stated that workman has not worked for 240 days in the bank. The management witness (MW-2), Shri J.P. Singh has also disputed genuineness of the letters from paper No. 15/2 to 15/14 due to their non-availability at the branch. He has further stated that the workman has not worked from 26-6-97 to 3-1-2003 in capacity of temporary Peon, instead he might have worked intermittently for seven to ten days, on casual basis, for which he has been paid and the Manager has no power to engage on regular basis. He has also stated that appointment of temporary Peon is done by Regional Manager after calling for names from Employment Exchange.

During examination in chief the MW-2 was directed to appear before Tribunal with payment vouchers in respect of casual worker; and accordingly, the MW-2 appeared before Tribunal with payment vouchers for the period from 24-6-97 to 3-1-2003, paper No. 35/2 to 35/26, in respect of the workman, and he has stated that as per payment vouchers the workman has worked/paid as under :

- (i) Voucher dated 8-7-97 Paper No. 35/2
- (ii) Voucher dated 1-8-97 Paper No. 35/3
- (iii) Voucher dated 3-3-98 Paper No. 35/4
- (iv) Voucher dated 10-3-98 Paper No. 35/5
- (v) Voucher dated 21-4-98 Paper No. 35/6

(vi)	Voucher dated 28-4-98	Paper No. 35/7
(vii)	Voucher dated 19-5-98	Paper No. 35/8
(viii)	Voucher dated 25-5-98	Paper No. 35/9
(ix)	Voucher dated 2-6-98	Paper No. 35/10
(x)	Voucher dated 12-6-98	Paper No. 35/11
(xi)	Voucher dated 22-6-98	Paper No. 35/12
(xii)	Cash memo dated 22-6-98	Paper No. 35/13
(xiii)	Voucher dated 23-6-98	Paper No. 35/14
(xiv)	Voucher dated 25-7-98	Paper No. 35/15
(xv)	Voucher dated 25-8-98	Paper No. 35/16
(xvi)	Voucher dated 30-10-98	Paper No. 35/17
(xvii)	Voucher dated 16-4-99	Paper No. 35/18
(xviii)	Voucher dated 28-5-99	Paper No. 35/19
(xix)	Voucher dated 31-5-99	Paper No. 35/20
(xx)	Voucher dated 11-6-99	Paper No. 35/21
(xxi)	Voucher dated 17-6-99	Paper No. 35/22
(xxii)	Voucher dated 2-7-99	Paper No. 35/23
(xxiii)	Voucher dated 13-7-99	Paper No. 35/24
(xxiv)	Voucher dated 14-12-99	Paper No. 35/25
(xxv)	Voucher dated 4-1-2003	Paper No. 35/26

In addition to above detail the MW-2 has stated that the workman has not worked continuously w.e.f. 24-6-97 to 3-1-2003. In cross-examination, he has stated that the documents/letters relied by the workman Le. paper No. C-34/2 to 34/12 are forged and he has also denied that workman has worked for more than 240 days and his services were terminated illegally.

12. In the light of the aforesaid rival statements of both the sides I have scanned the documents produced by the workman. Paper No. 15/2 is the photo copy of the letter dated 4-9-2001 from the Branch Manager; wherein it has been informed to the Regional Manager that the workman, Baljeet Ram is working on daily wage basis; also details of payment made to him are given in the said letter. Paper No. 15/3 is photocopy of the confidential letter dated 8-10-2001; whereby certain informations were sought by the Regional Manager regarding engagement of the workman. Paper No. 15/4 is photocopy of the letter dated 11-10-2001; which is reply of letter dated 8-10-2001, the most of this letter illegible. Paper No. 15/6 is photocopy of the letter dated 18-12-2001; whereby photo copy of Employment Exchange Registration Card (paper No. 15/7), in respect of the workman has been forwarded to the Regional Manager. Paper No. 15/8 is photocopy of confidential letter dated 24-7-2002 from Branch Manager, whereby it has been informed to the Asstt. General Manager that the workman,

Baljeet Ram is working as temporary Peon on daily wage basis w.e.f. 23-5-2001. Paper No. 15/9 is photocopy of letter dated 2-8-2002 regarding placement of Mr. K.L. Srivastava, Peon in Rafiganj Branch and accordingly a endorsement is made in the said letter to discontinue the services of the workman. Paper No. 15/10-15/11 is photocopy of the letter dated 30-12-2002 from Branch Manager; whereby the Asstt. General Manager has been informed of the working details of the workman. Paper No. 15/12 is photocopy of letter dated 3-1-2003 from Branch Manager whereby Asstt. General Manager has been informed of discontinuing the workman consequent to placement of Mr. K. L. Srivastava. Paper No. 15/13-15/14, is photocopy of letter dated 3-1-2003 from Branch Manager; whereby the Asstt. General Manager has been informed regarding Peon and Sweeper at the branch. The working details of the workman has been given in the said letter.

13. The management has disputed the genuineness of the above documents. The MW-1, Shri K. S. Sihmar has stated that said letter were ever been in the Branch or ever received in the Branch or sent from Branch to the Regional Office. Likewise the MW-2 Shri J.P. Singh has stated that the letters referred vide paper No. 15/2/ to 15/14 are not available in the Branch, it appears that all these papers are forged. There is no cross-examination on this point from the workman side. The MW-2 also denied that the signatures born on the letter from paper No. 15/2/ to 15/14 are that of Shri V.K. Chullu, after matching the same with 'Specimen Book'. The workman has neither produced nor summoned original documents/letters.

14. The workman has also filed photocopy of some payment vouchers, paper No. 34/2 to 34/12, the details of the same are as under :

- (i) Voucher dated 1-9-2001 for Rs. 3440 towards labour charges in May for 8 days, June for 26 days, July for 26 days and August for 26 days. Paper No. 34/2.
- (ii) Voucher dated 1-9-2001 for Rs. 3440 towards labour charges paid to Baljeet Ram in May for 8 days, June for 26 days, July for 26 days and August for 26 days, total 86 days. Paper No. 34/3.
- (iii) Voucher dated 7-8-2002 for Rs. 1120 towards labour charges paid to Baljeet Ram for 28 days. Paper No. 34/4.
- (iv) Voucher dated 7-2-2002 for Rs. 6120 towards labour charges paid to Baljeet Ram for Sept, 01, Oct, 01, Nov, 01, Dec, 01 and Jan, 02. Paper No. 34/5. On the reverse of the voucher details of days are given, which shows that he worked for 30 days in Sep., 31 days in Oct., 30 days in Nov., 31 days in Dec. and 31 days in Jan.
- (v) Voucher dated 12-7-2002 for Rs. 3040 towards labour charges paid to Baljeet Ram for the month

of April, May & June, 2002. Paper No. 34/6. On the reverse of the voucher details of days are given, which shows that he worked for 28 days in April, 31 days in May, 30 days in June.

- (vi) Voucher dated 15-4-2002 for Rs. 1240 towards labour charges paid to Baljeet Ram for March, 02 for 31 days. Paper No. 34/7.
- (vii) Voucher dated 6-8-2002 for Rs. 1120 towards labour charges paid to Baljeet Ram for 28 days. Paper No. 34/8.
- (viii) Voucher dated 7-9-2002 for Rs. 1040 towards labour charges paid to Baljeet Ram for 26 days in Aug, 02. Paper No. 34/9.
- (ix) Voucher dated 1-11-2002 for Rs. 1000 towards labour charges paid to Baljeet Ram for 25 days in Oct, 02. Paper No. 34/10.
- (x) Voucher dated 8-10-2002 for Rs. 1040 towards labour charges paid to Baljeet Ram for 26 days in Sep, 02. Paper No. 34/11.
- (xi) Voucher dated 10-12-2002 for Rs. 920 towards labour charges paid to Baljeet Ram for 24 days in Nov, 02. Paper No. 34/12.

Although the genuineness of the above vouchers are disputed by the management witness, Shri Jai Prakash Singh with allegation that the same are either forged or have been obtained by theft; but there is no iota of evidence in this regard on behalf of the management that it ever lodged any FIR for theft of payments vouchers at any point of time.

15. Admittedly no appointment letter was issued and no post was ever advertised for the appointment. There is no evidence of the workman that the Branch Manager was competent to appoint sub staff; moreover, it has been stated, by MW-1 Shri K. S. Sihmar that the workman might have been engaged by the Branch Manager in personal capacity in connection with some casual work. He has also stated that the casual labours are paid through 'vouchers'. It is quite evident that the workman has not produced original of the voucher, paper No. 35/2 to 35/24, filed by him in support of his claim or towards the payments made to him. On the other hand the MW-2 stated that he can produced the payments vouchers related to the workman; and accordingly, he was ordered to turn up with the same. Accordingly, in compliance of Tribunal's order, the management filed photocopy of payment vouchers, in respect of the workman, paper No. 35/2 to 35/26 which were related to the payments made to the workman for the duration 8-7-97.

16. It was the case of the workman that he worked as temporary Peon w.e.f. 24-6-1997 to 13-6-2000 and thereafter with an intermittent break he again worked up to 3-1-2003 and in the event of denial from the management the onus

was upon the workman to prove that he actually worked for 240 days preceding the date of his termination i.e. 3-1-2003 and his services were terminated in violation of provisions of Section 25 F of the I.D. Act. The documents/ vouchers produced by the workman in support of his claim were disputed by the management. The documents, particularly photocopy of the payment vouchers were pertaining to the period May, 2001 to November, 2002 on the other hand to defeat the claim of the workman the management disputed their genuineness by stating that they might be forged or have been obtained by theft, moreover, it filed payment vouchers for the period June, 97 to December, 2003, total 25 in number.

17. The management of the Bank has shaken of its hands from responsibility of producing originals of the payments vouchers by filed by the workman, paper No. 34/2 to 34/12 by disputing its genuineness with statement that they might be forged or have been obtained by theft and by filing few selected payment vouchers as per its convenience; but it could not bring any piece of evidence on record that any FIR was lodged on theft of said vouchers or how they are forged. On the contrary a close scrutiny of the payment vouchers filed by the workman, paper No. 34/2 to 34/12 and that of filed by the management, paper No. 35/2 to 35/26, it is very much evident that all the vouchers filed by the workman and one of the voucher dated 4-1-2003, filed by the management, paper No. 35/26 are in the same hand writing, this shows that the stand taken by the management that the photocopy of the vouchers filed by the workman are either forged or have been obtained by theft are is nothing but just to escape from the clutches of the provisions of the I. D. Act. Thus, there is ample ground to record the finding that the vouchers submitted by the workman can be taken as secondary evidence.

18. Having gone through rival contentions of the parties. I have scanned entire evidence submitted the parties. In the instant case in view of pleadings of the workman regarding continuous working of the workman for more than 240 days; and denial of the management of the same; also, filing of workman certain correspondences and payment vouchers; and the management disputing their genuineness; and also, filing of the management certain specific payment vouchers to defeat the claim of the workman, this Tribunal has to see as to whether the workman worked for 240 days in preceding twelve months from the date of alleged termination i.e. 3-1-2003 or not. Accordingly the details of the working days of the workman during relevant period i.e. 2-1-2002 to 3-1-2003 is as under :

Duration of working	No. of days	Paper Number
January, 2002	30	34/5
February, 2002	28	34/4
March, 2002	31	34/7

April, 2002	26	34/6
May, 2002	25	
June, 2002	25	
Voucher dated 6-8-2002 for Rs. 1120, month not mentioned	28 days	34/8
August, 2002	26	34/9
September, 2002	26	34/11
October, 2002	25	34/10
November, 2002	24	34/12
Voucher dated 4-1-2003 for Rs. 1120 for Dee, 2002, filed by the management	28	35/26

Total number of days = 322 days

Even after excluding 28 days of working mentioned in voucher dated 6-8-2002, paper No. 34/8, due to non-mention of month, the total number of working days comes to be 294 days.

19. Thus, there is ample evidence to record this finding that the workman had actually worked for 294 days in preceding twelve months from the date of his alleged termination i.e. 3-1-2003 and oral termination of his services, without any notice or notice pay in lieu thereof was in violation of the Section 25 F of the I.D. Act.

20. Now, it is to be considered as to whether the workman is entitled for reinstatement. From the evidence produced by the workman it is not proved that his appointment was as a regular worker. Even the statement of workman himself as well management witnesses the workman's services were utilized by the Branch Manager in the branch as and when necessity arise as daily mazdoor on daily wages. Admittedly, the services of the workman were terminated on 3-1-2003. In (2005) 5 SCC 591; 2005 SCC (L&S) 716 between Haryana Roadways vs. Rudhan Singh Hon'ble Apex Court while considering the question regarding award of back wages has observed :

"There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25 F of the Act, entire back wages should be awarded However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of permanent character cannot be compared to short or

intermittent daily wage employment though it may be for 240 days in a calendar year."

21. In (2008) 9119 FLR 877 Deepak Ganpat Tari vs. N.E. Theater Pvt. Ltd. Hon'ble Bombay High Court relying on the Hon'ble Apex Court's judgment in 2008 (117) FLR 1086 (SC) APV K Brahmandanam 2008 (118) FLR 376 (SC) Telephone DM vs. Keshab Deb 2006 (111) FLR 1178 (SC) JDA vs. Ram Sahai, while awarding compensation of Rs. 15,000 to the concerned workman considering his daily wages as Rs. 45 in view of the fact that the workman had put in about 3 years of service, has observed as under :

"It is apparent that termination of services of a daily wager does not amount to retrenchment and for violation of section 25F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages: Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only."

22. Also, in Jagbir Singh v. Haryana State Agriculture Mktg. Board (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545 : Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal and Others (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

"However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded."

23. In the light of principle laid down in aforementioned case laws, it would not be just and proper to direct that the workman be reinstated in service. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

24. Having regards to these facts that the workman has worked as daily wager only and he was getting Rs. 40 per day at the time of his alleged termination and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if, management is directed to pay lump sum amount of compensation only.

25. Accordingly, the management is directed to pay a sum of Rs. 30,000 (Rupees Thirty Thousand only) to the workman as compensation for termination of his services in violation of section 25F of the I.D. Act. The said amount

shall be paid to the workman within 8 weeks of publication of the award, failing which; the same shall carry interest @ 8% per annum.

26. The reference is answered accordingly.

Lucknow

16-3-2011.

Dr. MANJU NIGAM, Presiding Officer
नई दिल्ली, 29 मार्च, 2011

का.आ. 1127.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 118/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/81/2000-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1127.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 29-3-2011.

[No. L-12012/81/2000-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH,
PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 118 of 2000

Dispute between
Geetamber Prasad,
Son of Sh. Seti Prasad,
12/214, Gwaltoli, Kanpur.

AND

Union Bank of India,
Assistant General Manager,
Union Bank of India,
Pandu Nagar,
Kanpur.

AWARD

- Central Government, Mol, New Delhi, vide notification No. L-12012/81/2000-IR (B-1) dated

18-10-2000, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Union Bank of India, Kanpur in terminating the services of Sri Geetamber Prasad w.e.f. 13-6-98, is legal and justified? If not, what relief the concerned workman is entitled to?

3. Brief facts are, claimant Sri Gitamber Prasad alleges that he was engaged as a casual labour on 31-7-96 by opposite party under the supervision of opposite party No. 2, Branch Manager Union Bank of India. During his tenure opposite party used to take work like to serve drinking water cleaning the premises, to disburse the dak, cheques etc. from one branch to other branches. He was engaged in the Sarvodaya Nagar Branch which was opened newly. Payment was made through voucher. In this way he worked from 31-1-96 to 13-6-98 in different intervals. On 13-6-98 he was removed without any notice or notice pay or retrenchment compensation. His removal was illegal. During service he never gave any opportunity of complaint. During 31-7-96 to 30-10-96 his payment was made in his name and from 1-11-96 to 30-8-97, payment was made in the name of Rajesh and Raju, but the vouchers are in his writing, therefore, the opposite party has adopted an unfair labour practice. It is also alleged that after his removal opposite party has engaged another person in the name of Ajai, whereas he was demanding from the opposite party for his regular employment. Therefore, he has prayed that the order of his termination dated 13-6-98 be set aside and the opposite party be directed to reinstate him in the service.

4. Opposite party has filed the written statement, contradicting the versions of claimant. It is said that the present dispute is not an industrial dispute. Claimant does not have any cause of action. Reference is void.

5. It is alleged that the claimant was never appointed by the bank at anytime. The bank has a prescribed procedure for recruitment including recruitment rules for subordinate cadre. The claimant underwent through the recruitment procedure by the bank and thus he is not entitled to be appointed by the bank. It is submitted that to provide better customer services various labours available outside the branch are at times utilized and it was always made clear to them that the work was on day to day basis and has nothing to do with absorption in the bank's service. Thus to cater the special needs persons are casually and intermittently engaged and are paid for the work done. The claimant may be one such person but he was never appointed in the bank on any post or at any salary at any time.

6. When the claimant was never appointed so question of termination does not arise. Opposite party has not flouted any provisions of the Industrial Disputes Act, 1947. Question of notice pay or retrenchment compensation does not rise. Opposite party has not committed any unfair labour practice.

7. Therefore, the opposite party has prayed that the claim of the workman be rejected being devoid of merit.

8. The claimant has also filed rejoinder but nothing new has been stated therein.

9. Claimant has filed huge payment vouchers vide list dated 7-6-2002.

10. Claimant has produced himself in oral evidence as W.W.I Sri Gitamber Prasad.

11. Opposite has not produced any oral or documentary evidence.

12. Heard and perused the record.

13. After perusal of the evidence and from the pleadings of the claimant it is a fact that the claimant was never appointed on a regular post of sub-staff by following a prescribed recruitment rules. He never went for any interview etc. and his name was never called from any employment exchange, no post was advertised.

14. The next question arises for determination is as to whether the claimant has worked for 240 days or more in a calendar year preceding the date of his termination that is 13-6-98.

15. I have examined his evidence oral as well documentary. He has stated in his chief on oath that he had worked up to 30-8-97. He has nowhere stated that he had worked till 12-6-98 and his services were terminated on 13-6-98. Even a period of one year is to be calculated that is to be calculated from 13-6-98, it comes to 12-6-97, 12-6-98 but he has stated that he worked up to 30-8-97. He has nowhere stated that it was a clerical error or otherwise. Court cannot presume it as 13-6-98. In his pleadings he has stated that voucher through which he was paid were prepared with effect from 31-7-96 to 30-10-96 in his name, but thereafter from 1-11-96 to 30-8-97, in the name of Rajesh and Raju which is an act of unfair labour practice. But this fact has not been stated on oath in his evidence by the claimant. Vouchers which have been filed through list dated 7-6-2002 at serial no. 2 again indicates that from 24-10-96 to 9-12-96, were prepared in the name of the claimant whereas this fact is against the pleadings mentioned in Para 6 of the statement of claim.

16. W.W.I has been cross-examined by the opposite party. In the cross he stated that he was interviewed

but in the pleadings this fact has not been pleaded. He also stated that he does not know the name of the persons who was engaged after his removal.

17. I have gone through the vouchers. These are photo copies mostly illegible. Claimant did not appear at the time of arguments. I could not get much after going through these vouchers.

18. Opposite party has filed the written arguments wherein it has been stated that even if all these vouchers are taken on record, still it shows that the claimant had worked only for a few days like 11 days in between 31-7-96 to 10-8-96 and thereafter for 4 days and like this.

19. Therefore, considering all the facts and circumstances of the case, I am of the view that the claimant has not been able to prove that he has worked continuously for 240 days or more in a calendar year preceding the date of his termination. Initial burden lies on the claimant, who has failed to discharge the same.

20. Therefore, the reference is decided against the claimant holding that he is not entitled to any relief.

21. Before parting with it may also be pointed out here that there does not appear in the facts circumstances and evidence of the claimant that the opposite party at any point of time has committed any unfair labour practice or have breached the provisions of the Industrial Disputes Act.

RAM PARKASH, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1128.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या 7/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/120/2006-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1128.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Pune (Maharashtra) as shown in the Annexure, in the Industrial Dispute between the management of Central

Bank of India and their workmen, received by the Central Government on 29-3-2011.

[No. L-12012/120/2006-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE INDUSTRIAL TRIBUNAL MAHARASHTRA AT PUNE

Reference (IT) No. 7 of 2007

The Assistant General Manager,
Central Bank of India,
Raviwar Peth, Laxmi Road, Pune-I. ...First Party

AND

Shri Yallappa H. Waghmode,
C/o. Shri Durga, Plot No. 76,
Sham Nagar, Opp. Bharat Sut Girni,
Kupwad, Sangli.Second Party

In the matter of reinstatement

CORAM : M. G. Choudhary, Presiding Officer.

APPEARANCES : Smt. S. Mharolkar, Advocate for first party.

Shri N. A. Kulkarni, Advocate for second party.

AWARD

(6/01/2011)

The Government of India through Ministry of Labour in exercise of powers conferred under Sec. 10 (I)(d) R/w. Sub. Sec-2(A) of the Industrial Disputes Act, 1947 referred the industrial dispute between above named parties for its adjudication by this Tribunal. The dispute which is referred by the reference order dtd.6-7-07 mentioned in the schedule reads as under :—

“Whether the action of the management of Central Bank of India, Pune to take approval from the Employment Exchange in the case of Shri Yallappa Waghmode, an internal candidate for their employment especially when he has been selected through the written test and interview and terminating his services w.e.f. 1-9-02 without following the provisions of Sec. 25F of the I.D. Act are just and legal. If not, to what relief the concerned workman is entitled ?”

2. The second party workman appeared in the matter and filed his statement of claim at Exh.U-2 and contended that he was appointed by the first party at Miraj branch as a worker on daily wages on 13-9-88 and he was continued till 1994. According to the second party during the period from 1988 to 1994 he was paid on vouchers from time to time and he was paid at that particular time at the rate of Rs. 5 per day. According to the second party workman,

thereafter he was reappointed at Sangli branch of the first party in July, 1997. He was paid on vouchers from July 1997 till 1-9-02. According to the second party on 1-9-02 his services were terminated orally by the first party though he has completed 240 days continuous service. According to the second party he has rendered the services from July 1997 till 1-9-02 and completed 240 days continuous service. It is further contended that he was not paid retrenchment compensation nor he was given any notice pay as required under Sec. 25F of the I. D. Act, no seniority list was ever displayed prior to the retrenchment/termination on the notice board, no enquiry was held against the second party, no charge sheet was given, thus according to the second party his termination is illegal. It is also contention of the second party that, since he has completed 240 days continuous service in the year 1993, he was called for an examination and after passing the written examination he was called upon for an interview, but he was not appointed as a permanent employee though he has requested to that effect. According to the second party he has rendered the continuous service from July 1997 to 1-9-02 and he was paid on vouchers from time to time and from 15-7-2000 his salary was credited directly to his bank account. After his termination he approached the Branch Manager at Sangli on various occasions and thereafter he approached to the Regional Office at Pune, but the second party was only assured by the concerned officer from time to time that he will be taken back in the service with approval of the Head Office. Thereafter he raised an industrial dispute by approaching the Labour Office by sending demand letter dtd. 24-3-06. According to the second party, after his termination he has tried for alternative job, but he could not succeed and he is unemployed from the date of termination and still he is unemployed even till the date of filing of this statement of claim. On this background lastly requested to allow the demand.

3. The first party in the written statement at Exh. C-4 contended that the so called dispute raised by the second party workman is not legal, proper and maintainable. According to the first party, the second party raised the dispute in the year 2006, for the first time when as per his own statements the alleged termination of his services is from 1-9-02. According to the first party, the second party had never approached or sent any demand to the first party or any of its offices during the period from 2002 to 2006, and the dispute needs to be rejected on the ground as the dispute is stale and the second party has raised the same after a long gap of four years with malafide intention to harass the first party. It is denied that second party was appointed with first party at Miraj branch from 13-9-88 and was continued till 1994. It is denied that the second party was reappointed at Sangli branch of first party from July 1997 and he was continued till 1-9-02. It is denied that services of the second party were orally terminated. It is denied that the second party has completed 240 days of

continuous service in any year. According to the first party, second party had engaged in services of first party as and when required on casual/daily wage and part time basis and he was never appointed on any particular post. The second party used to work as and when required and he was paid on voucher wages for the particular day. He has never worked continuously for 240 days in any particular year, and his services were purely casual, as and when required and had no fixed timings and his work was not supervised by the officers of the first party. According to the first party, there is no question of or applicability of Sec. 25F of the I. D. Act, notice pay, seniority list, enquiry or principles of natural justice. According to the first party, the second party was never appointed as per the prescribed recruitment procedure on any particular post. As the first party is a Government of India undertaking the rules of employment as per Government guidelines are required to be strictly adhered to while appointing a person against a sanctioned post and as the second party had worked on daily wage and part time basis as and when required and as there were four vacancies of staff (two general, one ST and one physically handicap) in 1993 the second party had appeared for the written test. The District Employment Office had forwarded list of 10 candidates of general category, 5 of ST and 5 of PH category and other than these persons, 3 other persons including the second party were allowed to appear in the test. As the second party cleared written test he was called for an interview on 23-11-94 and as the name of the second party was not sponsored by Employment Exchange the first party wrote a letter dtd. 24-11-94 seeking clearance/exemption in respect of second party. The Employment exchange in its reply stated that a person sponsored against part time vacancy cannot be considered against regular vacancy and hence exemption certificate cannot be issued. According to the first party as the Employment Exchange has not granted NOC in respect of second party, he was not appointed in regular post with the first party. On this background lastly requested to reject the reference.

4. The following issues are framed in the matter at Exh. 4 by my Ld. Predecessor which arise for my determination—

- (1) Whether the reference is tenable under law ?
- (2) Does the second party prove that he worked more than 240 days in the year preceding the date of termination?
- (3) If yes, whether termination is in violation of the provision of Sec. 25F of the I. D. Act ?
- (4) Does the first party proves that the alleged termination of second party is just & legal?
- (5) Whether the second party is entitled for relief as prayed?

(6) In what manner the reference is answered?

My findings to above issues for the reasons recorded below are as under—

- (1) Yes;
- (2) Yes;
- (3) Yes;
- (4) No;
- (5) Yes, partly;
- (6) Reference is answered partly in affirmative as per order below.

REASONS

5. Both the parties have produced the documents on record. The second party in order to prove his case deposed in the matter at Exh.U-3 and in his examination in chief by way of affidavit stated the same thing as per stand taken by him in his statement of claim. In addition to that he has stated that whatever available work he used to do of labourer to maintain his family and he used to get Rs. 100 or Rs. 150 per month. Further in his examination in chief he has stated about documents produced with list Exh.U-5. In cross-examination he has stated that presently he is working in Sahyadri Starch at Miraj and getting Rs. 4900 pm towards wages. He has stated that he is working there since last six years. He has admitted that his initial appointment was as daily wages employee, however at the time of his appointment he was not given the written order by the bank. He has not produced the documentary evidence to show that during 1988 to 1994 he was working in Miraj branch of the first party. He has stated that after his alleged termination of 2002 he approached to Regional Labour Commissioner in 2006 he has stated that after his termination till approaching to the Regional Labour Commissioner he had not made any written complaint to any authority about his termination. He has admitted that at the time of appointment on sanctioned post the bank used to take written test and oral interview and it is required as per the procedure. He has admitted that bank required to call the names of the candidates from the Employment Exchange. He has admitted that before his appointment his name was not referred by Employment Exchange and he had not undergone written test of oral interview. He has stated that he does not know whether the Employment Exchange never given any permission for his appointment in bank during 1988 to 2002. He has stated that after his termination he attempted for job but he is not in possession of any copies of application which he made for job. He has denied other suggestions given to him in cross-examination.

The first party has examined Mr. Bhalchandra Narayanrao Kulkarni, at Exh.C-7 and in examination in chief

by way of affidavit he stated that the same thing as per stand of the first party in written statement. Further in his examination in chief he has also stated about the documents produced with list Exh.C-8. In cross-examination he has stated that he never worked in the first party bank branch at Sangli and Miraj. He has stated that he has filed the present affidavit on the basis of documents available in the bank. He has admitted that during 1988 to 1994 the complainant was working as casual workers for some time and during 1997 to September 2002 he worked as causal workers in the branch at Sangli. He has further admitted that during that period he was being paid on vouchers. He has admitted that letter dtd. 7-10-02 Exh.U-5/B was given to Region office by the branch. He has further admitted that at the time of recruitment of employees the bank required recommendation from the Employment Exchange and at the time of recruitment of daily rated or casual workers there is no requirement of recommendation by Employment Exchange. He has denied other suggestions given to him in cross-examination.

6. With the help of material on record I have heard the argument of Advocates for both the parties at length and both of them have submitted their case as per material on record. In addition to that the Advocate for the first party employer in support of her argument relied on the case law reported in 2007-(2)LJJ-935, Brahmanand Tiwari Vis. Presiding Officer. Labour Court & Anr; CA-3253-2005-SC. Chief Engg. Ranjit Sagar Dam Vrs. Sham Lal; CWP-I0723-2004. Executive Engg. HUDA Gurgaon Vis. Presiding Officer. Industrial Tribunal-cum-Labour Court. Gurgaon & Anr; CA-1265-2006-SCMP Housing Board V/s. Manoj Shrivastava; CA-1869-2007-SC. Haryana Urban Development Authority V/s. Om Pal; CA-3595-3612-1999-SC. Secretary State of Karnataka V/s. Umadevi; CA-2985-2007 -SC. Official Liquidator V/s. Dayanand & Ors; 2005 : (2)-SCC-673. Central Board of Dawoodi Bohra Community V/s. State of Maharashtra.

Considering the ratio of the case law and considering the facts of the present case I am deciding this Reference.

7. The first objection of the first party in this matter is that, according to the second party his services were terminated in the year 2002 and he raised an industrial dispute in the year 2006 as such after four years the dispute is raised and this Tribunal may not decide the said stale claim and reject the same on this count alone. Further it appears to me that second party was working with the first party on temporary basis and he has stated in the statement of claim as well as in his affidavit that he used to meet the officers of the first party for employment and they were giving him assurances about the employment. Apart from this contention of the second party in my considered view under the provisions of I.D. Act there is no provision in relation to limitation to raise an industrial dispute.

Considering the second party was working on temporary basis and coming from weaker section of the society it cannot be said that the dispute raised by the second party is barred by limitation or is stale, as such it losses its importance. Under these circumstances I am of the considered view that the dispute raised by the second party workman is perfectly maintainable under the provisions of I.D. Act, hence I answer Issue No. 1 in affirmative.

8. It is contention of the second party that during the period from 1988 to 1994 he was working on daily wages basis of Rs. 5 per day with the first party at Miraj and he was paid on vouchers and the first party has denied this fact in written statement. However the witness of the first party at Exh.C-7 Mr. B. N. Kulkarni has admitted in cross-examination that during 1988 to 1994 the second party workman was working as casual worker for some time. It is also contention of the second party that during the period from 1997 till 1-9-2 he was continuously working with the first party at Sangli and completed 240 days of continuous service with the first party in each year. This fact is again denied by the first party, however the witness of the first party in cross-examination at Exh.C -7/06 admitted the document issued by Sangli branch to the regional office of the first party which is dtd. 7-10-2 at Exh.U-5/B which reads as under :—

“Regional Office, PRS Dept., Pune.

Reg: Engaging of temporary/casual working for 240 days or more in a calender year.

Ref: Your letter RO:PRS : 23 : 2002-03 : 1936 dt. 4-10-2002.

With reference to your quoted letter, we are submitting the information on employing of temporary/casual worker for 240 days or more in a calender year—

Name of the employee (casual worker)	Year	No. of Days
Yallappa H. Waghmode	1998	296
.....,.....	1999	315
.....,.....	2000	307
.....,.....	2001	300
.....,.....	Upto Aug. 2002	217

9. After perusal of the above letter it is clear that the second party workman had completed 240 days of continuous service with the first party during 1998 till 1-9-02. According to the second party the first party has orally terminated his services on 1-9-02. In this respect the first party has denied the allegation of termination of the second party. In my opinion when second party has

completed 240 days of his services and if according to the second party, the first party has orally terminated the services w.e.f. 1-9-02 it is for the first party to state/plead clearly in the written statement what initiative the first party has taken for not reporting the duties by the second party after 1-9-02. In my opinion the first party ought to have issued notice to the second party for not reporting for duties, as such I have no hesitation to hold in this matter that the first party has orally terminated the services of the second party w.e.f. 1-9-02 without following the provisions of Sec-25F of the I.D. Act as such his termination is illegal. It is also contention of the first party in the written statement in para-4 which reads as under—

“Without prejudice the first party respectfully submits that, the services of the second party were engaged by Miraj, Sangli branch of first party from time to time purely on casual/daily wage and part time basis whenever there was such requirement during any exigency or workload. The second party was never appointed as per the prescribed recruitment procedure on any particular post. As the first party bank is a Government of India undertaking, the rules of employment as per Government guidelines are required to be strictly adhered to while appointing a person against a sanctioned post. As the second party had worked on daily wage and part time basis as and when required, and as there were four vacancies of staff (2 general, 1 ST and 1 physically handicap) in 1993, the second party had appeared for the written test. District Employment Office had forwarded list of 10 candidates of general category, 5 of ST and 5 of PH category. Other than these persons, 3 other persons including the second party were allowed to appear in the test. As the second party cleared written test he was called for an interview on 23-11-94. As the name of second party was not sponsored by employment exchange, the first party wrote a letter dtd. 24-11-94 to Employment Exchange seeking clearance/ exemption in respect of second party. However the Employment Exchange, Sangli in its reply stated that a person sponsored against part time vacancy cannot be considered against regular vacancy and hence exemption certificate cannot be issued. As the Employment Exchange has not granted NOC in respect of second party, the second party was not appointed in a regular post with the first party. As such there is no irregularity/illegality on the part of the first party. It is respectfully submitted that the second party was fully aware of all the circumstances and consequences, and has initiated the false dispute with malafide intention by making misleading statements.”

10. I make it clear that, in this matter this Tribunal is not going to examine whether the second party is entitled for employment with first party on permanent basis as that

demand is not before me, for' simple reason, the first party being public organization is required to follow the rules and regulations in respect of recruitment on the posts available with the first party. In this matter the only demand before me is, as to whether the termination of services of the second party w.e.f. 1-9-02 is in violation of Sec-25F of the I.D. Act are just and legal, and if not to what relief the second party is entitled?

11. When second party has proved 'that he has completed 240 days continuous services with the first party prior to 1-9-02 in each year as such it was obligatory on the part of the first party to follow the mandatory provisions of Sec-25F of the I.D. Act at the time of termination of services of the second party. Admittedly the said Sec-25F of the I.D. Act was utterly violated by the first party, as such the first party failed to prove that the termination of the second party is just and legal and as observed above the second party has proved that he has worked for more than 240 days continuously in preceding date of termination in each year and there is violation of Sec-25F of the I.D. Act at the hands of the first party, as such as per normal rule the second party is entitled for relief of reinstatement with continuity of service as before. However on the point of back wages it is on record that after termination of services of the second party effected on 1-9-02 for the first time the demand was raised in the year 2006 i.e. after four year and it is on record by way of admission given by the second party in cross- examination that he is working with Sahyadri Starch at Miraj and he is getting Rs. 4900 per month as wages and he is in the employment of the said company for more than six years and in his examination in chief he has stated that he used to do labour work to maintain himself, thus it is clear that the second party is gainfully employed after his termination. Thus considering all these aspect as observed above I hold that this is not a fit case to grant relief of back wages to the second party workman, as such the second party is not entitled for any back wages in this proceedings. In view of this I answer Issue No.2 to 5 accordingly.

In view of my findings on above Issues it is clear that the reference is liable to be answered partly in the affirmative, hence I proceed to pass the following award.

AWARD

1. The Reference is answered partly in affirmative.
2. The second party workman is entitled for the reinstatement with continuity of service as before with the first party, but without back wages.
3. No order as to costs.
4. Copies of this award be sent to Government for necessary action.

M. G. CHOUDHARY, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1129.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 45/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-2011 को प्राप्त हुआ था।

[सं. एल-12011/90/2005-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1129.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 45/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the Industrial Dispute between the management of Punjab National Bank and their workman, received by the Central Government on 29-3-2011.

[No. L-12011/90/2005-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 45 of 2005

Parties: Employers In relation to the management of Punjab National Bank

AND

Their workmen.

Present: Mr. Justice MANIK MOHAN SARKAR
Presiding Officer

APPEARANCE:

On behalf of the Management	: Mr. S. Chatterjee, Manager of the Bank.
On behalf of the Workmen	: Mr. R. Chatterjee, executive committee member of the Bank Employees' federation (W.B.) with Mr. A. Mitra, Secretary of the union.

State : West Bengal.

Dated : 8th March, 2011.

Industry: Banking.

AWARD

By Order No.I-12011/90/2005-IR(B-II) dated 8-11-2005
the Government of India, Ministry of labour in exercise of

its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Punjab National Bank, Zonal Office, Kotkata in imposing punishment of “withdrawal of special pay/allowances for a period of 12 months” to Shri Ballal Sen while he was posted as Head Cashier Category “E” at Tollygunj Branch of the Bank is just, legal fair? If not, to what relief the concerned workman is entitled to ?”

2. Workmen union has stitched the case of the workman concerned by stating that the workman, Shri Ballal Sen was employed as Clerk/Cashier under the management Bank and performed the duties of “Head Cashier Category—E” at Tollygunj Branch, Kolkata of the Bank and this post carried special allowance/special pay in addition to normal pay and allowance available to him. On 16th June, 1999 Shri Sen was called upon to perform the duty of “Special Assistant” of the Branch. Subsequently, on 10th May, 2000 the workman Shri Sen was served with a chargesheet dated 3rd May, 2000 issued by the disciplinary authority purportedly on the basis of a complaint by one of the customers of the Bank and the allegation leveled against him in the chargesheet was that he passed a cheque without verifying the signature of the drawer of the cheque and commented that the said act of the workman jeopardized the interest of the Bank by gross negligence which was likely to involve the Bank in serious loss. By a letter dated 29th July, 2000, workman Shri Sen denied the charge leveled against him and subsequently the disciplinary authority by order dated 3-9-2000 introduced a domestic enquiry into the said chargesheet. After conclusion of the domestic enquiry and on the basis of submission of written brief by the Presenting Officer and the defence representative of the workman/chargesheeted employee concerned, the Enquiry Officer submitted his report and acting there upon, the disciplinary authority by a second show-cause notice dated 4-10-2002 informed the workman concerned about the proposal for withdrawal of special pay and allowance he was drawing at the relevant point of time, for 12 months from the date of final order and after giving an opportunity to the workman concerned for a personal hearing on 24th October, 2002, confirmed the said proposed punishment. The workman challenged the order by a letter dated 4-12-2002 to the appellate authority which subsequently by order dated 19th June, 2003 upheld the finding of the Enquiry Officer and also of the disciplinary authority with some modification that the workman concerned would be entitled to special allowance without retrospective effect. The workman alleged that the Enquiry Officer had no finding about Shri Sen committing any misconduct and that the punishment imposed upon him

by the disciplinary authority has been challenged as patently unwarranted unjustified, unlawful and claimed to be quashed or set aside.

3. The management Bank in its written statement on reiterating the story made out by the workmen in its pleading about the stretches upto the domestic enquiry and also upto the order of punishment of the workman concerned by the disciplinary authority on conclusion of the domestic enquiry, claimed that Shri Sen was provided with opportunity by the Enquiry Officer and subsequently by the disciplinary authority to be heard personally. It is claimed that the Enquiry Officer after assessing/examining the documents produced in the enquiry and the evidence adduced by the witnesses had submitted his report of findings and the claim of having no evidence before the enquiry proceeding as alleged by the workman, has been denied. It is stated that the workman Shri Sen in fact, admitted in his written brief that he actually passed the cheque in question and thereby he got the signature of the drawee in the cheque tallying with the specimen signature within a very short period of time 1 or 2 seconds and thereby, the workman failed to verify the signature with the specimen before passing; it and thereby, the charge levelled against the concerned workman is found almost admitted/accepted. So, the management claimed that the workman Shri Sen did not deserve any exoneration as claimed by the workmen union as he was found guilty of the charges in the enquiry proceeding done without denial of natural justice and it is claimed that the punishment imposed upon him was justified and lawful.

4. Though the management Bank was present before the Tribunal through its authorized representative on earlier occasions none appeared here to place the submission of the management Bank in course of hearing argument though from the record it is found that fresh notice was issued to the management Bank and it was received in view of the A.D. Card has been received back with the endorsement of receipt.

5. In course of his argument Mr. R. Chattopadhyay, authorized representative of the workmen union made a detailed argument pointed out different flaws from the side of the management Bank dealing with the matter in question.

6. Evidently it is clear that the domestic enquiry was concluded and thereupon, the disciplinary authority ordered for a lighter punishment upon the workman concerned by way of withdrawal of special pay/allowance. It is also clear that the workman side did not challenge the domestic enquiry proceeding as not proper and unjustified with the allegation of denial of natural justice to the workman concerned. Rather the alleged act of misconduct of passing the cheque has been admitted by him though the allegation of the disciplinary authority of not tallying the signature with the specimen signature was denied by him. Though the workman concerned has not come in this industrial dispute with the allegation that the punishment

imposed upon him was not proper and he should have been properly handled in this regard since the Enquiry Officer had a finding in the enquiry report that the workman concerned passed the fraudulent cheque in good faith and having no malafide intention.

7. The question may automatically crop up here as to whether this Tribunal can go into the question of propriety or adequacy of punishment since the punishment was a minor one with the act of withdrawal of special pay/allowance for 12 months. Since it is not a case of dismissal or discharge, provision of Section 11-A of the Industrial Disputes Act, 1947 cannot be invoked. This act does not provide any other provision questioning the propriety or adequacy of any other type of punishment besides dismissal or discharge. Discussion on this point may be deferred for the time being. Before going to any finding on that point, a scrutiny of the point of submission made on behalf of the workman concerned may be discussed in a short forum.

8. Mr. Chattopadhyay, authorized representative of the workmen union submitted that the misconduct alleged in the chargesheet was limited on two words "without verifying" and on the basis of the same, the Enquiry Officer concluded in his enquiry report with wordings "without tallying with the signature of the drawer with the specimen signature held with the branch." Mr. Chattopadhyay specifically put a stress to the wordings of the Enquiry Officer in bold letters in his enquiry report (Ext. W-6), middle of the page 10 where the Enquiry Officer stated in this way "Thus, from the facts stated above it can be concluded that Sri Ballal Sen passed the fraudulent cheque, ME-4 in good faith and having no malafide intention." Mr. Chattopadhyay also insisted to take notice of the finding of the Enquiry Officer in his report about the conduct of the account holder as he bridged his views in the line "But the circumstantial evidences also indicate ill-motive of the account holder, Mr. Rahman, in passing the fraudulent cheque." Basing upon the said two views of the Enquiry Officer, Mr. Chattopadhyay claimed that the Enquiry Officer found the workman concerned without any malafide intention and yet he decided to declare him as being subjected to the misconduct in the chargesheet as proved. Though Mr. Chattopadhyay has nowhere pleaded that it was denial of natural justice by the Enquiry Officer and unfair labour practice on the part of the management through its disciplinary authority to anyhow punish the workman concerned, he has submitted that it was not proper from the side of the management Bank to subject the workman concerned to any punishment on the basis of the said enquiry report.

9. In this context, in my view, two things are there. Firstly, the allegation was of negligence on the part of the workman concerned which may not be an outcome of any malafide intention or absence of good faith since negligence on the part of an employee in doing official

work may sometime cause loss or other harm to the employer which the disciplinary authority found to act with some whip of punishment for future caution. Though some pecuniary loss was done to the workman concerned for a temporary period, but it did not cause greater harm to him. Secondly, the earlier raised question automatically may be taken up for discussion as to whether this Tribunal can interfere with the punishment ordered by the disciplinary authority against the present workman in the present context, as the said punishment is not a dismissal or discharge. In this context, reference may be given to a finding reported in (2006) 5 S.C.C. 201 wherein the Hon'ble Apex Court held

"If the enquiry is fair and proper then in absence of any allegation of victimization or unfair labour practice, the Labour Court has no power to interfere with the punishment imposed. Section 11-A of the Industrial Disputes Act, 1947 gives ample power to the Labour Court to reappraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment. But, that section is applicable only in the case of dismissal or discharge of a workman. Since 11-A was not applicable, the Labour Court had no power to reappraise the evidence to find out whether the findings of the Enquiry Officer were correct or not, or whether the punishment imposed was adequate or not." in view of the said finding the present Tribunal has a very "intimated scope to interfere with the finding of the Enquiry Officer and subsequent order of punishment by the disciplinary authority as it does not come within the purview of Section 11-A of the Act and also since there is no other provision in the Act for such interference by the Tribunal in the case other types of punishment, major or minor for misconduct; interference by the Tribunal is denied."

10. In such circumstances, though the Enquiry Officer is found to have some sympathetic assessment of the workman concerned as referred in the earlier paragraphs, as the said enquiry proceeding and since the report of the Enquiry Officer has not been challenged by the workman concerned as devoid of natural justice and all the acts of the management side is not claimed to be unfair labour practice, the hands of the Tribunal are tied from any interference. So, I do not find any reason to question the merit in the claim of the workman concerned and the act of the management Bank in imposing the punishment of withdrawal of special pay/allowances to Shri Ballal Sen, the workman concerned cannot be stated to be unjust, illegal and unfair. Naturally, the workman concerned is not entitled to any relief.

Accordingly, an Award is passed.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer
Kolkata, Dated : 8th March, 2011.

नई दिल्ली, 29 मार्च, 2011

का.आ. 1130.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 31/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-17011/1/2000-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1130.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2007) of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 18-3-2011.

[No. L-17011/1/2000-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH,
PRESIDING OFFICER,

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 31 of 07

The General Secretary,
NCZ Insurance Employees Association,
70 D, Shyam Nagar, Kanpur.

AND

The Divisional Manager,
Life Insurance Corporation of India,
MG Marg, Kanpur.

AWARD

1. Central Government, MoI, New Delhi, vide notification No. L-17011/1/2000-IR (B-II) dated 17-8-07, has referred the following dispute for adjudication to this tribunal—

2. Whether the action of the management of Life Insurance Corporation in withholding stagnation increment of Sri Raj Kumar Bajpai for a period of one year i.e. 1-11-95 to 31-10-96 is justified? If no, to what relief the workman is entitled for?

3. Brief facts are—

4. The claimant alleged that he was working in City Branch Office-III Kanpur HGA, under the opposite party and was transferred to DO Kanpur since 25-10-95. His second stagnation increment of Rs. 230 per month was due on 1-11-95. It was withheld by one year and released on 1-11-96. Due to this wrong action the workman suffered a

loss of Rs. 4000 approximately. More than after three months from the due date the opposite party informed him that his stagnation increment has been shifted for one year but without assigning any reasons. (Copy is enclosed). He was never informed about his unsatisfactory report or bad behaviour in the office, therefore, without assigning any reason the decision of stagnation increment is unjust illegal and unfair.

5. It is also alleged that he was also granted promotion thereafter; it shows that he was fit for promotion. Therefore, he prayed that he is entitled to get the stagnation increment from the due date with effect from 1-11-95 along with interest which comes to about Rs. 16000.

6. He also alleged that previously he has filed the proceedings under Section 33-C-2 of the I. D. Act which was not examined. Later on he filed an Industrial Dispute Case No. 61 of 2000 wherein an award was given on 23-5-06 but it was on technical ground and not on merits.

7. Opposite has filed the written statement contradicting the allegations made by the claimant against the management. They alleged that workman Sri Bajpai has already been retired from the services; hence he is not a workman as defined under Section 2(s) of the Act. His case has also not been espoused by the union. It is also alleged that I. D. Case No. 61 of 2000 was decided against the claimant so this case is barred by principle of res-judicata. It is stated stagnation increment was rightly and legally deferred for one year on the basis of special confidential report received in the matter. Although the management is not obliged to intimate to its employee but he was duly informed about the decision of the opposite that stagnation increment has been shifted for one year. This increment is different from the normal grade increments and it is released on the basis of satisfactory work record. His special report was not satisfactory so the stagnation increment was not released in his favor with effect from 1-11-95. It is stated that the criteria for interview and promotion is different and criteria for granting stagnation increment is different.

8. Therefore, the opposite party prayed that the claimant is not entitled for any relief.

9. Both the parties have filed documentary as well as oral evidence.

10. Claimant has filed 5 documents. These documents are photocopies of LIC Letter dated 27-4-96 Ext. W-1, 28-11-96 Ext. W-2, 21-7-95 Ext. W-3, LIC Order declaring promotion Ext. W-4, LIC Letter dated 19-3-96 Ext. W-5. These are the letters regarding the correspondence took place in between the workman and the opposite party regarding the stagnation increment.

11. Opposite party has filed all the relevant documents in original. These documents are consideration letter regarding stagnation increment of the claimant which is marked as ME-2, and second document is original special confidential report of the claimant marked as M-3, third

document is order dated 19-3-96 regarding deferment of stagnation increment of the claimant.

12. Opposite party has also filed the relevant circulars in this regard.

13. Claimant has adduced himself in oral evidence as W.W.I Sri Raj Kumar Bajpai. Opposite party has produced Sri S. Gopalan, Administrative Officer of the LIC as M.W.I.

14. Heard the arguments and perused the record thoroughly.

15. During the arguments it has been contended by the authorized of the claimant that this special confidential report Ext. M-3 is mala fide and fictitious, as the reporting officer has himself written that he has joined on 1-7-95, therefore, this report cannot be for the back period 1-1-95 to 30-6-95. This has been admitted by both the parties to grant stagnation increments CR of the claimant and special CR of the current year has to be considered. Opposite party has placed reliance upon a circular dated 8-9-87. The relevant extract is..... as regards the confidential reports to be taken into consideration for grant of stagnation increment appointing authority shall consider the Special Confidential Reports (SCRs) along with the three ACR for the immediately preceding three years and take a decision for this purpose in addition to the special report being satisfactory an employee securing an average of 24 marks or above out of 40 marks for confidential reports for a period of three years immediately preceding the due date of stagnation increment is to be considered to have been found with satisfactory work record and consequently to be granted stagnation increment.

16. Thus a short question is to be decided after the exchange of pleadings and discussion is whether this special confidential report is a fictitious document and mala fide considered by the appointing authority.

17. I have gone through this report. Much stress has been given on the point that the reporting officer has joined on 1-7-95, therefore, this report cannot be for the period 1-1-95 to 31-10-95. Opposite party has the contention on a number of counts. Firstly that reviewing officer has been for the whole period and it was for the reviewing officer to agree or not with the reporting officer. I agree with the contention of the opposite party. If this is a bad confidential report and the reporting officer has got sufficient time that too for four months, I think he is competent to record his own finding on the confidential report for the period 1-1-95 to 31-10-95.

18. Similarly reviewing officer has given his approval and he has been for the full period as stated by the opposite party.

19. This tribunal is not supposed to indulge into the allegations levelled against the workman in the special confidential report.

20. I have examined the oral evidence of both the parties. M.W. I Sri Gopalan has specifically stated on oath that the order of withholding the increment of the workman has been passed in a just and fair manner and according to the circular dated 8-9-87. It is contended by the opposite party that no such mala fide has been alleged by the claimant and no such suggestion has been given to M.W. I. It is contended by the opposite party that there is no such provision to inform the claimant before passing any order. I agree with the contention of the opposite party.

21. Therefore, considering oral as well as documentary evidence, I find that the special confidential report of the workman is not the fictitious or mala fide document. If the opposite party has based its decision on the special confidential report which is based on the relevant circulars prevalent in the department, which is admitted by both the parties, so decision of the opposite party cannot be held unlawful on this point.

22. Next contention is that the workman has been promoted so the decision taken by the competent authority in withholding the stagnation increment is not lawful. Opposite party has contended that the criteria for the items i.e. for promotion granting stagnation increment are different. I agree with the contention of the opposite party.

23. Opposite party has contended that the award has been delivered in I.D.No. 61 of 2000 against the workman so the principle of res judicata will apply. It has been opposed by the claimant alleging that this award was not delivered on merits but on technical grounds. I agree with the contention of the claimant.

24. It has also been contended by the opposite party that the workman has already been retired from the services and has received his all terminal dues so he is not a workman as defined under section 2(s) of the Act.

25. Therefore considering all the facts and circumstances of the case I am of the view the claimant has failed to prove his case accordingly it is held that the action of the management referred to in the schedule of reference order is neither unjust nor illegal. It is also held that the workman is not entitled for any relief as claimed by him.

26. Reference is answered accordingly against the claimant.

RAM PARKASH, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1131.—औद्योगिक विवाद अधिनियम, 1947 (1947

का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंचाय एंड सिंध बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय-II, नई दिल्ली के पंचाय (संदर्भ संख्या 17/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/19/2008-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1131.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2008) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Punjab & Sind Bank and their workmen, which was received by the Central Government on 18-3-2011.

[No. L-12012/19/2008-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI SATNAM SINGH,
Presiding Officer**

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NO. II,
KARKARDOOMA**

I.D. No. 17/2000

In the matter of dispute between :

Smt. Achla Kapoor
Resident of B-4-78B,
Lawerance Road, New Delhi.

....Workman

VERSUS

The Zonal Manager,
Punjab & Sind Bank,
Sidhartha Enclave,
Ashram Chowk,
New Delhi

.....Management

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/19/2008-IR(B-II) dated 7-5-2008 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Punjab and Sind Bank in imposing the penalty of ‘compulsory retirement with superannuation benefits and her period of suspension would not be treated as a period spent on duty and she would be entitled to only the subsistence allowance already drawn by her vide order dated 2-6-2005, on Smt. Achla Kapoor is legal and justified. If not to what relief the concerned workman is entitled?”

2. The workman Smt. Achla Kapoor has filed her statement of claim in which she has submitted that she has been a permanent employee of the management bank since December, 1976. She has rendered unblemished service of about 28 years in the bank. The management is a Nationalized Bank and is expected to be a model employer following fair practices by adhering to the bipartite settlements in the matter of employment of the workman.

3. That the primary grievances of the workman is that the learned Disciplinary Appellate Authority has erroneously and with non application of mind passed the impugned order dated 2-6-2005/9-11-2005 inflicting the punishment of compulsory retirement upon the workman upon the same facts and allegations for which the workman had already been punished by way of warning in the year 2001.

The workman has also given the brief back ground of the events leading to and culminating in the filing of the present statement of claim. According to her, in order to tide over her domestic difficulties, she raised various loans from the Credit and Thrift Societies around the year 1999. For availing loan from the Credit & Thrift Societies, the workman did not require prior permission from the management as there is no such provision in the bipartite settlement. She could not strictly adhere to the repayment schedule in respect of the loans raised due to domestic difficulties and the concerned credit societies wrote to the management for the repayment of the instalments. Accordingly, the management issued the show cause notice to the workman in the year 2001 in respect of the said loans. The workman being a sincere employee, admitted the outstanding of various loans from the Credit Societies/Institutions. The management inflicted the punishment of warning in terms of bipartite settlement and advised the workman not to enter into the excessive debt. That the workman did not avail any credit facilities from the Credit Societies thereafter.

4. That due to domestic difficulties the existing outstanding of the Credit Societies kept on mounting as the workman was not able to follow the repayment schedule due to domestic difficulties. The said societies aggressively pursued the management to take action against the workman on frivolous and concocted allegations to pressurize the workman to arrange the funds.

5. That the management issued the charge-sheet dated 12-5-2004 in respect of loans raised from the Credit Societies by alleging forgery in some documents although the workman had already suffered the punishment of warning in the year 2001 for the said loans. The workman admitted the charges except the charges of forgery as she had already suffered the punishment for the same set of facts in the year 2001. The Disciplinary Authority of the rank of the General Manager instead of appreciating the forthright admission of facts by the workman threw all cannon of natural justice and inflicted the unjustified and extreme punishment of “compulsory retirement” on the workman which was based on surmises and conjectures.

6. The workman had been requesting for copies/ inspection of record pertaining to the show cause notice/ warning issued to her in the year 2001 by the management from the Enquiry Officer/Disciplinary Authority/Appellate Authority but the same has not been supplied to her. The workman asked for the same even during the conciliation

proceedings before the ALC. Unfortunately, the workman has not been able to trace the said old record at her own end and it is vital for her defence.

7. That the workman was charged under Clause 5(j) and (m) of the bipartite settlement. That clause 5(m) could not be invoked against the workman as it has no semblance with the allegations levelled in the charge sheet dated 12-5-2004. The copy of the charge sheet dated 12-5-2004 has been enclosed by the workman.

8. That in the charge sheet dated 12-5-2004, it has been alleged that the workman submitted forged documents for availing loans. The management ordered departmental enquiry into the truth of the allegations levelled vide charge sheet dated 12-5-2004. As the workman had already admitted the taking of the loans from various Credit Societies in the year 2001 and suffered the punishment of warning, the workman without hesitation admitted the charges on 24-12-04 except that any forgery was ever committed by the workman to save the precious time of the management. This admission dated 24-12-2004 was based on the plea of the workman that neither the management nor the workman could retract from the admitted position in respect of the show cause notice issued to the workman in the year 2001.

9. That to the utter surprise and shock of the workman, the Enquiry Officer of the Management used the admission dated 24-12-2004 of the workman in a most mischievous manner in deference to the dictate of the management to nail the workman by declaring that charges against the workman stood proved vide a perverse findings dated 10-1-2005. That the findings dated 10-1-2005 of the Enquiry Officer are solely based on admission dated 24-12-2004 wherein the workman had denied the forgery on her part but admitted the availment of loans. That the findings have no mentioned of forgery being proved or not proved in any manner but it shows that the charges stand proved due to the admission of the workman. It is an example of perverse findings. The workman has filed copy of her admission dated 24-12-2004 and the findings of the Enquiry Officer dated 10-1-2005.

10. It is further the case of the workman that the Disciplinary Authority of the Management by throwing all cannons of natural justice used the conjectures and surmises to punish the workman by calling the matter as 'rarest of rare' and imposed the punishment of compulsory retirement from the bank vide order dated 2-6-2005. That the Disciplinary Authority admitted in the order dated 2-6-2005 that it is not conclusively proved that the workman did forgery but at the same breath used the admission dated 24-12-2004 of the workman by using the conjecture that if the workman had not committed the forgery, then the workman must have managed the same and punished her. How could the workman have managed the same has not been disclosed in a cursory manner by the Disciplinary Authority in the punishment order. That the Disciplinary Authority in his zeal to punish the workman at the behest of said Credit Societies even failed to consider the submission dated 2-6-2005 received within the stipulated period by his office. That the Disciplinary Authority in a

most brazen manner punished the lady workman by taking of her source of livelihood and respect for taking loans to tide over her domestic difficulties. That the workman always maintained higher standard of integrity in her working and she had been working in the prestigious branches of the management where transactions worth crores take place every day. That the Disciplinary Authority ignored her unblemished record of more than 28 years of service for dubious reasons. That the representation of the workman against the proposed punishment of 'compulsory retirement' seems to have been thrown in the dustbin by the Disciplinary Authority as it finds no mention in the official order dated 2-6-2005. That the appeal of the workman against the order dated 2-6-2005 has been dealt with in a pre-conceived and mechanical manner vide order dated 9-11-2005. According to the workman, it is pertinent to mention that the Appellate Authority of DGM was subordinate to the rank of Disciplinary Authority of GM and it is obvious that he has no moral authority or courage to go against the Disciplinary Authority. The Appellate Authority has declared after perusal of the record and concluded that the workman repeatedly used forgery. That there is complete non application of mind and perversity of the order of the Appellate Authority is written large on the face of the order dated 9-11-2005.

11. That the workman only raised loans and not committed any offence which warrants taking away her source of livelihood and dignity at the fag end of her career on the basis of totally frivolous and concocted charges. The punishment is not only excessive and harsh but a depiction of male dominated biased attitude. That the male officers of the bank have been promoted to very senior positions even after getting number of charge sheets while female employees have hardly gone beyond MMGS II in the bank in spite of utmost sincerity and devotion. That the punishment is shockingly disproportionate even if presumed that the allegations have been proved.

12. That no one can be charged for the same offence again as enshrined in our Constitution but the management without respecting the law of the land charged the workman twice by adding allegations of forgery in the year 2004. The workman thus has suffered the vice of double jeopardy which is no permissible. Further, the management did not restrict the scope of the disciplinary proceedings to the charge sheet but extended its scope at punishment stage by presuming that the workman must have managed the forgery which was not the charge and the workman had no occasion to defend the same. That the workman was compelled to accept terminal benefits due to pecuniary depravity thrust upon her by the management at the fag end of her career when she had to marry off her daughter. That the acceptance of terminal benefits was without prejudice to her right to get justice. The workman ultimately has prayed as under :

- (i) That the management be directed to supply the record of the disciplinary proceedings initiated against the Workman in the year 2001.

- (ii) The management be directed to recall the Order dated 2-6-2005 and 9-11-2005 and reinstate the workman with full back wages and all consequential benefits.
- (iii) Any other relief considered just and proper in the circumstances of the case.

13. The management bank has contested the claim of the workman and has filed a written statement in which they have submitted that the management is a nationalized financial institution thriving on the faith and investment of general public. Its employees cannot be allowed to paralyse and gnaw the very existence of the institution. Financial irregularities/availing loans beyond their means by using fake/fabricated documents by employees of the financial institution reflects the tip of the iceberg. Such employees are vulnerable to perpetuate frauds in financial institutions. The employees of the Nationalised Banks are expected to maintain higher standards of morale, integrity and honesty. Commensurating to the gravity of proved misconducts, the workman was imposed the punishment of 'compulsory retirement' from the bank services.

14. It is further submitted that the workman was charged sheeted vide charge sheet dated 12-5-2004 for the charges enunciated therein. The departmental enquiry was instituted for probing into the veracity of the said charges. The enquiry was held in consonance with the principles of natural justice wherein the workman was afforded all opportunities to defend herself. The charges stood proved in the departmental enquiry and the workman was imposed the penalty of 'compulsory retirement' commensurating with the gravity of the charges proved. That the charges enunciated in the show cause notice dated 25-6-2001 and in the charge sheet dated 12-5-2004 are entirely different. The workman unconditionally, candidly, unequivocally and spontaneously accepted the charges in both. In view of her candid admission of the charges, the workman is estopped from challenging the same at such a belated stage or making it conditional. That vide order dated 26-9-2001, the workman was imposed the punishment of warning and she was warned not to incur debts from the market without prior permission from the competent authority. Despite the said punishment, the workman admittedly availed loans without the prior permission of the competent authority in flagrant disregard to the punishment and a specific mandate on her and by misrepresenting herself to be an officer of the bank and submitting false, fake and forged documents. In raising such loans she presented false/fabricated documents purported to have been signed by the officers of the bank which are prejudicial to the interest of the bank.

15. It is also submitted by the management that this Tribunal would not sit as an Appellate Court over the orders of the Appellate Authority. Sufficiency of evidence cannot be gone into by this Tribunal.

16. Further, there is no infirmity in the departmental enquiry. The orders passed therein are based on bland admission of the workman. Having admitted the charges in

to the administration in a financial institution warranted a stringent penalty of dismissal. However, being a lady employee she was imposed the penalty of 'compulsory retirement' which entailed payment of all appended retirement benefits to her. That in case the departmental enquiry is set aside for any reason by this Tribunal, the management prays for an opportunity to prove the charges in this case.

17. On merits, it is admitted that the workman worked in the bank for the last 25 years as a steno-typist. It is submitted that she took loans from various Societies using false documents purported to be signed by the bank officials. Various Societies sued her under Section 138 of the Negotiable Instruments Act. The bank had to suffer loss of reputation and integrity in the eyes of the public at large. The number of charges against the workman speaks volume about her dishonesty and scant regards to the rules of the bank and instructions of her seniors. Her acts were prejudicial to the interest of the bank. The charges levelled vide charge sheet dated 12-5-2004 being entirely different from the charges leveled vide show cause notice dated 26-6-2001, the charge sheet is legal and justified. The workman admitted the charges in to in the departmental enquiry and in her written brief. The workman despite suffering punishment of warning and despite specific directions not to incur debt from the market without prior permission from the higher authorities in future, she flouted the said orders and availed a loan of Rs. one lakh from the Bank of Maharashtra on the basis of a false 'No objection' certificate purported to have been signed by the manager of the Zonal office, New Delhi. This reflects the attitude and respect of the workman steno-typist towards the leniency in punishment imposed and reasonable orders of the management. The workman admitted the charges into and not with any exception as alleged. The Chief Manager was the designated disciplinary authority of the workman (orders having been passed by the higher authority) and Deputy General Manager, the appellate authority. That asking for documents before the conciliation officer/ALC on the ground that she was not able to trace it in her records would not make the charges in the two similar. That the order of punishment dated 2-6-2005 was passed consequent to due appreciation of facts, her representation and the entire enquiry record. The documents on the basis of which loans were granted to the workman were provided to the workman and duly exhibited in the enquiry proceedings in her presence. The workman was the beneficiary of the said loans. The documents relied upon by the disciplinary authority were duly supplied to the workman against her signatures and the workman admitted the charges on 24-12-2004 without any exception. That the enquiry officer used the admission letter in its correct perspective. The workman having admitted the charges in to cannot turn around after having findings against her. No forgery was ever denied by her. The admission of the workman without any coercion proves the charges. That the workman was never forced to give any reply nor given any assurance as

is now being alleged. The workman having admitted taking loans from outside agencies without the permission of the competent authority, admitted having misrepresented herself to be an officer of the bank used false/fabricated documents to raise such loans and thus acted prejudicially to the interests of the bank, despite having been warned not to take loans from outside agencies without the permission of the competent authority. That if the workman had the means to repay the loans taken from Rohtak Society, she intentionally took loan from Bank of Maharashtra to prove her disregard to the specific mandate of the management on her. It was a 'rarest of rare' cases of insubordination. The workman neither showed any ignorance of the documents for availing the said loans nor she disputed that she had misrepresented herself as an officer to avail the said loans. Having acquiesced in the same and having admitted the charges, it does not lie in the mouth of the workman to allege that the charges did not stand proved to the hilt or that the disciplinary authority should have discussed as to how the workman managed the documents.

18. It is further submitted by the management that vide letter dated 23-5-2005, the workman sought extension of time to file reply to the show cause notice. Vide letter dated 24-5-2005, she was given further three days time to file the reply. That the submission dated 2-6-2005 was not received within the stipulated period by the office. A lady workman has no right to commit misconduct, admit them and then claim premium over her honesty of having admitted the charges. A financial institution like the management cannot afford to keep the employees who have no financial integrity. That past sincerity does not warrant condonation of grave and heinous misconduct. Her past record was taken into consideration which culminated in the punishment of compulsory retirement with all the retirement benefits appended thereto. That the order of the appellate authority is a specific order. The appeal was decided by the designated appellate authority on the entire enquiry record. The admission of a charge does not require evidence to corroborate it. The order thus is legal and justified. It is denied that the workman was charge sheeted twice for the same misconduct. That on one hand, the workman alleges that she has lost the show cause notice issued to her in 2001 and on the other hand she alleges that she has been charged again on the said misconduct and suffered double jeopardy which belies her own averments. The workman has embarked on a fishing and roving enquiry to see whether the charges are similar or not. That the charges stood proved to the hilt on unconditional and a candid admission of the same by the workman. That the acceptance of the terminal benefits by the workman was without any objection and she voluntarily accepted her dues of her own accord. That the management, therefore has prayed that the claim of the workman should be dismissed and the reference may be decided in favour of the management.

19. By filing a rejoinder the workman has controverted the pleas and the allegations made by the management against her and has re-asserted her own submission made in the statement of claim. According to the workman, she only availed the loans and had some difficulty in repaying the same and the management even after coming to the conclusion that the workman had not done any forgery or misrepresentation, punished her on the basis that she was the beneficiary without ruling out the possibility that someone might have played dirty to take undue advantage. That the management acted more like a recovery agent of the money lender than as a sincere and unbiased empire.

20. In support of her case, the workman has examined herself and filed her own affidavit. She was subjected to cross-examination by the AR of the management. In rebuttal, the management has filed the affidavit of Mr. Manjit Singh Vasdev, its senior manager, Zonal Office. He too was subjected to cross-examination by the AR for the workman.

21. I have heard the learned AR for the parties and have perused the entire record including the written submissions filed on record by both the parties.

22. The workman was charge sheeted in this case vide charge sheet dated 12-5-2004 for the charges enunciated therein. A departmental enquiry was instituted against her for probing into the veracity of the said charges. The workman in her reply dated 24-12-2004 to the said charges, of her own volition and without any coercion admitted the same. She now contends that she had admitted the charges except the charges of forgery levelled against her in the said charge sheet. However, this plea of hers is not borne out from the record as she has nowhere stated in the reply that she did not admit the charges of forgery against her.

23. It is also not in dispute in this case that before the charge sheet dated 12-5-04 was issued to the workman she was issued a show cause notice dated 25-6-2001 and she candidly and voluntarily accepted the charges mentioned in the said show cause notice as well and the workman vide order dated 26-9-2001 was imposed the punishment of warning by the management and she was further warned not to incur debts from the market without prior permission from the competent authority. The said penalty has also attained finality and it is not the subject-matter of this reference.

24. It is further not in dispute that despite the warning in the year 2001 the workman took loan from Bank of Maharashtra without obtaining the permission from the management bank and according to the management this clearly shows her dis-regard to the specific mandate of the management bank on her. In the charge sheet dated 12-5-2004 the workman was also charged that she had represented herself as officer Grade I at the Zonal Office while taking a loan of Rs. 95,000 from Standard and Chartered Bank, Indian Express Building, ITO, New Delhi. The workman was admittedly only a steno-typist and not a Grade I officer of the management bank and thus she clearly misrepresented to the Standard Chartered Bank for obtaining the loan of Rs. 95,000. She never disputed that

she did not represent herself as Grade I officer of the management bank while taking the loan from Standard & Chartered Bank. It is also mentioned in the charge sheet that while availing the loan of Rs.1 ,00,000 from Bank of Maharashtra, Asif Ali Road, New Delhi, she submitted a No Objection Certificate purported to have been signed by the Manager, Staff Section of Zonal Office, New Delhi stating that the management bank had no objection if the workman could raise loan from them, while in fact no such certificate was issued by the Zonal Office, New Delhi. Clearly, grave and false representations were made by the workman while taking the said loans from those bank even after she was administered the warning vide order dated 26-9-2001. In fact, the departmental enquiry has not been challenged in this case and therefore, sufficiency of evidence need not be gone into by this tribunal.

25. The workman has submitted in this case that she has been charged twice for the same charges i.e. once by way of show cause notice dated 25-6-2001 and the second time by way of the present charge sheet dated 12-5-2004 and the charges in both these documents are similar. It may be noted here that the workman has not brought on record both the document for ascertaining her claim that the charges in the two documents are the same. The management on the other hand has submitted that the charges in the show cause notice dated 25-6-2001 and in the charge sheet dated 12-5-2004 are entirely different. According to them the charges in the show cause notice dated 25-6-2001 were for incurring debts to an extent considered by the management as excessive which is a minor misconduct while the charges in the charge sheet dated 12-5-2004 are for acts which are for gross misconduct as per clause 9(5)(j) and (m) of the Bipartite Settlement. In the given fact situation, it is difficult to accept the charge of the workman that she has been charged twice on the same allegations.

26. The workman has also submitted that the disciplinary authority in this case is the General Manager while the Appellate Authority is DGM who is subordinate in rank to the disciplinary authority and therefore, she has not been properly dealt with in this case. The management on the other hand has challenged the same and has submitted that the Chief Manager is the designated disciplinary authority of the workman and the order of punishment in the present case has been passed by the Zonal Manager who is the authority higher than the Chief Manager. The designated appellate authority on the order of the Zonal Manager as disciplinary authority is Deputy General Manager (personal) and the appeal in the present case has been decided by the designated appellate authority and there is thus no irregularity on this issue. A circular to that effect has also been placed on record from the side of the management. Here again, the plea of the workman is devoid of any force.

27. Another grievance of the workman in this case is that her representation against the proposed punishment of compulsory retirement has been thrown in the dustbin

by the disciplinary authority as it does not find any mention in the order dated 2-6-2005. Rebutting this charge the management bank has submitted that vide letter dated 23-5-05 the workman sought extension of time to file reply to the show cause proposing punishment. Vide letter dated 24-5-2005 she was given further three days time to file the reply. No such reply was received by the management bank within the stipulated period and in fact the reply to the show cause was received by the disciplinary authority only on 4-5-2005 by speed post as is evident from the postal receipt EX.M.3 and so her submission which was not received within the stipulated time could not be taken into account. However, her past record was taken into consideration while passing the order of compulsory retirement with all retirement benefits appended thereto. The workman Smt. Achala Kapoor WW1 in cross-examination has stated that she does not know if the management bank had sent her letter dated 24-5-2004 by speed post or not but she denied having received the said letter. She then added that the said letter was delivered to her by the DGM on 30-5-2005 personally at 1.30 PM. There is absolutely no record to prove the assertion of the workman Smt. Achala Kapoor that the DGM had personally handed over the letter dated 24-5-2005 to her at 1.30 PM. She was also given the suggestion that the DGM did not personally give any such letter to her. If according to the workman herself she had received the letter dated 24-5-2005 on 30-5-2005 she could have given her submissions to the appellate authority before the order was actually passed on 2-6-2005. There is nothing to show that workman Smt. Achala Kapoor was even in any way prejudiced that her submissions on the proposed punishment were not considered by the appellate authority. The conduct of the workman Smt. Achala Kapoor was such that even harsher punishment could have been inflicted upon her by the management but her past record was considered by the management and she was given the punishment of compulsory retirement with all the retirement benefits appended thereto and such a punishment in the facts and circumstances of this case cannot be said to be shockingly disproportionate. The employees of the Nationalised Banks are expected to maintain higher standard of morale and integrity. Even otherwise, this tribunal cannot sit in appeal over the orders of the competent authority. In the circumstances of the present case it cannot be said to be a fit case for interference in the quantum of punishment inflicted upon the workman. No fault can be found even with the other part of the order passed by the management on 2-6-2005 regarding the period of suspension and allowing only the subsistence allowance to the workman already drawn by her. The order dated 2-6-2005 mentioned in the reference is clearly legal and justified and no fault can be found with the said order. The workman is not entitled to any relief in this case. The award is passed and reference answered off accordingly.

Dated : 22-2-2011

SATNAM SINGH, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1132.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 259/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/81/99-आई आर (बी.-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1132.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 259/99) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 18-3-2011.

[No. L-12012/81/99-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR
INDUSTRIAL DISPUTE NO. 259 OF 99

Sri Sushil Chandra Mishra
C/o Sh. B. P. Saxena,
426, W-11, Vasant Vihar, Kanpur.

AND

Bank of India,
The Regional Manager,
Bank of India,
Bhind M. G. College,
Civil Lines, Kanpur.

AWARD

1. Central Government vide notification No. L-12012/81/99/IR (B-II) dated 25-8-99, has referred the following dispute to this tribunal for adjudication.

2. Whether the action of Bank of India is justified in terminating the services of Sh. Sushil Chandra Mishra, temporary peon w.e.f. 12-9-98? If not to what relief is the disputant entitled to?

3. Brief facts are that the claimant Sri Sushil Chandra Mishra has filed his statement of claim alleging that he approached the Manager Bank of India Mall Road Kanpur Branch in quest of employment. The manager of the bank was pleased to offer the employment to the claimant as temporary sepoy from 4-1-89. He was required to perform

all the duties of a sepoy (peon) for the full office hours of the bank. He was initially paid salary/wages at the rate of Rs. 25 per day which was raised to Rs. 40 per day and ultimately Rs. 50 per day. However, no salary was paid for Sundays and holidays. His salary was neither paid through pay sheet nor through vouchers. The payment was made in cash by the manager on monthly basis who used to obtain reimbursement through voucher. Taking work for full days, not paying prescribed salary for the category and whatever was paid was not given through regular methods amounts unfair labour practice committed by opposite party as defined under section 2(ra) of the Act. He continuously worked from 4-1-89 until 12-9-98, when his services were abruptly terminated by the bank, without assigning any reason. At the time of termination of the services of the applicant the bank neither paid notice pay or retrenchment compensation, it a breach of Section 25F of the Act.

4. It is alleged that there were about five more temporary sepoys, in the name of Sri Sanjai, Rajesh, Pankaj, Dilip and Raj Kumar, who were junior to the applicant. The bank has continued them in service and has terminated the services of the applicant. Thus the bank has made breach of Section 25G of the I.D. Act. After termination of his services the bank has appointed Sri Rajesh but did not afford the opportunity to the applicant thus the bank has further made breach of Section 25H of the Act. It is again elaborated that the applicant has worked for more than 240 days and in fact for the whole year preceding the date of termination of the applicant i.e. 12-9-98.

5. Therefore it is prayed that the action of the opposite party in terminating the services of the applicant be held to be bad in law and he be held entitled to be reinstated in the service of the opposite party with full back wages.

6. Opposite party has filed the written statement alleging that the claimant was never in the employment of the opposite party, he never worked as a temporary sepoy. It is said that to fill the vacancies of sepoy names from the employment exchange are called and the selection is made through interview for filling up regular vacancies of sepoy, even temporary employment exceeding three months, in the matter of sepoy the appointing authority is the Regional Manager. No officer at the branch level is competent to employ or engaged any sepoy in the employment of the opposite party whether temporarily or permanent. Any engagement or employment in violation of the recruitment rules and established procedure is totally unauthorized and illegal. It is denied that the applicant approached the manager for employment. It is again stressed that there is a prescribed procedure to fill the vacancies. But it is said that however not disputed that the manager Kanpur Main Branch might have engaged the services of the applicant on casual or on contingent basis depending upon the need of the branch in tune with the provision contained under para 20.7 of the BPS reading as under—

Temporary workman can be appointed for a limited period for work, 1 which is of an essentially of temporary nature or second which is a temporary increase of work of a permanent nature or 3rd in a temporary vacancy caused by absence of a permanent workman.

7. It is said that the daily rated worker is outside the definition of workman under the provision of the Industrial Disputes Act, 1947. Again it is said that if any work from the claimant was taken it was on casual basis for a duration as may have been required, depending upon the nature of work. It is stated that daily rated worker are engaged on daily basis. No question arises to make payment for Sundays and holidays. Such workers are not paid through pay sheet. or vouchers. Such wages are reimbursed to the manager who has engaged as casual worker as per need. It is disputed that the applicant has continuously worked from 4-1-89 to 12-9-98. It is however not disputed that the bank may have engaged him for few days on contractual basis. Thus on the expiry of the period of contract the services of such daily wagers automatically comes to an end and non renewal of the contract does not amount to retrenchment, therefore, the opposite party has not committed any unfair labor practice. In case of a daily rated casual worker no question of maintaining of any seniority of such staff arises. None amongst the five persons as named in the Para under reply have been engaged as temporary sepoys in the bank. As the contract of service is casual, on daily wage basis it automatically terminates at the end of the day, thus the provisions of Section 25H of the Act are not attracted. Again it is submitted that the services of the applicant were utilized on casual basis as daily rated casual worker and he was not bound to do so in case he did not choose to work. Bank has no control over the attendance and punctuality of such daily rated workers. Since claimant's services could not be utilized on continuous basis he choose not to present himself in that manner and he therefore, stopped coming to bank of his own accord. After having stopped to come to the bank for the daily rated job, the applicant opted to remain quite in this regard and it was only in October 98, that he moved application for raising the dispute. This shows that the bank has not terminated his services. It is again submitted that the bank may engage casual labor who so ever may be available when such necessity arises in any of the branches of the bank. If the applicant did not present himself for work, bank cannot wait for him and engage anybody else who is found available. As such there is no violation of Section 25H of the Act. Therefore the bank has prayed for the rejection of the claim.

8. Rejoinder has also been filed by the claimant but nothing has been pleaded therein.

9. Both the parties have filed documentary as well as oral evidence.

10. Claimant has filed 8 documents vide list 7-12-2000, all these documents are photocopies. Out of these

document workman has stressed upon only two documents which will be discussed at the appropriate stage in the body of the order. Workman has also filed a copy of experience certificate which is paper No. 13/29 issued by the bank vide application dated 9-8-2010.

11. Opposite party has filed two documents vide list 19/1. These documents are regarding recruitment of subordinate staff circular dated 20-3-70 and 19-8-77 and photo stat copy of BPS mentioning para 20.7 as contained in written statement.

12. Workman has adduced himself as W.W.1 Sri Sushil Chandra Mishra. Opposite party has produced one Sri T. N. Abdi, Manager IR as M.W.1.

13. No other cogent evidence has been adduced.

14. I heard the parties at length and perused the whole record.

15. The first point to be decided is whether the claimant was employed or engaged on a regular basis through a prescribed procedure or he was engaged by the branch manager as a daily rated worker. If he is employed as a daily rated worker whether he has completed 240 days of continuous work.

16. In this light I would like to examine the oral as well as documentary evidence. W.W. Sri Mishra stated on oath that he was employed on 4-1-89, by the main branch of the opposite party at Kanpur as sepoys. He used to work from 09.00 a.m. to 6.30 p.m. He was being paid Rs. 25 per day in the beginning thereafter at the rate of Rs. 40 and Rs. 50 per day. He was not being paid for holidays and Sundays. Sometimes he was being sent to Swaup Nagar and Transport Nagar Branch from the main branch but his attendance was marked at the main branch and the salary was also paid to him from the main branch of the bank. To make payment of wages the manager used to prepared a voucher for reimbursement and he was being paid in cash. He stated on oath regarding paper No. 13-A, saying that this is a photocopy of the voucher dated 18-5-96 though wrongly written as 18-8-96 as it was not legible up to that extent. It is said that along with this voucher there is a list of the workers on the same paper along with voucher which contains the name of the temporary peons. Serial no. 4 the name of the claimant is there and he had been paid Rs. 240. It is stated that he has filed the original experience certificate dated 9-10-92 issued by Bank of India, a photocopy of which was already filed vide list dated 7-12-2000. He stated that he continuously worked right from 04.01 until 12-9-98.

17. It is stated that when he was terminated no retrenchment compensation was paid to him.

18. It is further stated that when he was removed at that time Sri Kishan Pawan Dixitl Hari who were junior to him were working. They were not removed. It is further stated that after his termination the bank has further engaged in the main branch Sri Dilip, Sanjai Kanojia and Rajesh as temporary sepoys.

19. He has been thoroughly cross-examined. First of all I would like to say that he admitted in the cross that he was not a regular employee in the bank. He also admitted that he daily used to go and used to get daily work.

20. MW. I Sri T. N. Abdi has stated on oath that there was no regular employee in the name of S. C. Mishra. It is a fact that the name of Sri S. C. Mishra was never called from employment exchange for regular selection. There is no such appointment letter. Therefore, considering the oral as well as documentary evidence it cannot be said that he was appointed as a regular employee by following the prescribed procedure.

21. Now it is to be seen whether the claimant had worked for 240 days or more in a calendar preceding the date of his termination. I have examined his statement and the documentary evidence produced by him. He has specifically stated on oath that he had worked right from 4-1-89 to 12-9-98. Leaving Sunday and holidays he used to go daily at the branches and he used to work. He has been thoroughly cross-examined on this point. There is nothing in the cross-examination, which makes his statement disbelievable. I have examined the statement of Sri Abdi on this point. He specifically stated that during 89-90 he has not joined the service. I have also interrogated him and it reveals that he does not have any personal knowledge regarding this case. He stated that he does not know whether any employee in the name of Sri S. C. Mishra has been working or not in the bank, but no regular employee has been working in such name. He admitted that according to the necessity branch manager engaged as casual daily rated worker. A.R. for the claimant has invited my attention towards paper No. 13/29, which is an original certificate. According to the certificate by the manager Bank of India. Swarup Nagar Branch on 9-10-92 - it states that Sri Sushil Chandr Mishra works in Bank of India since four years (1989-92) and in my other branches and head branches Phoolbagh and Swarup Nagar etc, Kanpur, he is a good worker. I hope his good future. Veracity of this certificate has been doubted by the opposite party saying that it is a forged one. Claimant has already filed photocopy of this document vide list dated 7-12-2000. Regarding doubts of this certificate in the contention of the opposite party I do not find any force in their contention. If they were thinking it is forged they could have produced the branch manager of Swarup Nagar Branch. It has come in evidence on oath in the statement of W.W. I that it was issued by Sri R. K. Gupta. There was no suggestion given to W.W. I that it was forged one. Moreover, M.W. I has also not stated on oath regarding the veracity of this document. A. R. of the claimant wants to show that he had been continuously working. Similarly he has stressed to draw my attention on paper no. 13/13-A. This is a bank paper though photocopy. In a single sheet there is a list of casual workers who have been paid and in the bottom there is a voucher dated 18-5-96. Nothing has been said by M.W. I regarding this document, whereas W.W. I has specifically stated in his

statement. In this list there is name of Sri Sushil, wherein he had received Rs. 240. Moreover, if I go through the pleadings of the opposite party I find there is an admission by the opposite party regarding his engagement as casual labour. On the one side they have alleged that the claimant was engaged for a certain period and when the work was finished his contract came to an end. Whereas in the last pages of the written statement at page four para 10 they stated that the services of the applicant were utilized on casual basis a daily rated worker and he was not bound to do so in case he did not choose to work. Bank has no control over the attendance and punctuality of such daily wagers. Since, applicants services could not be utilized on continuous basis he choose not to present himself in that manner and he therefore stopped coming over the bank at his own accord. But I find there is no evidence given by the opposite party on this point. M.W. I has not stated any word regarding these pleadings. Moreover no such suggestion was put to W.W. I that he voluntarily stopped the work, therefore, the version of the opposite party is contradictory in itself and without any basis of proof.

22. It has been admitted that he has been engaged and that too for a long period. But if the claimant stopped to work then the best thing could have been the record which was in the possession of the management, they could have produced the records that the claimant had worked from this period to this period and later on he stopped to come. It is, therefore clear that they have not come with clear pleadings. There is nothing to disbelieve the statement of the claimant and the documentary evidence filed by the claimant. Once the claimant has discharged his burden, the burden shifts upon the opposite party but they have not given any cogent and sufficient evidence against the claim of the claimant. Therefore, in my view considering the facts and evidence after hearing the arguments it is found and held that the claimant had been working continuously from 4-1-89 to 12-9-98 and he had worked for 240 days and more in a calendar year preceding one year from the date of termination.

23. As held above that he had worked for 240 days and more a right has accrued to the workman under section 25F of the Act. It states no workman employed in any industry that has been in continuous service for not less than one year under an employer shall be retrenched by that employer until

(a). The workman has been given one months notice in writing indicating the reason for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of the notice.

24. It has been stated on oath by the claimant that he has not been issued any notice or notice pay and he has not been paid any retrenchment compensation. This fact is also proved by the evidence of parties.

25. Therefore, according to the evidence it amounts retrenchment which is violative of the provisions of section 25F of the Act.

26. Claimant has also taken a plea in his claim statement and he has also stated on oath that when he was removed, at that time Sri Kishan, Pawan, Dixit and Hari who were junior to him had not been removed. He also stated on oath that after his removal the bank has engaged new worker as temporary sepoy, whose names are Dilip Sanjai Kanaujiya and Rajesh. He has been cross-examined on this point also nothing has come out in his statement which makes his statement disbelievable on this point. I have examined the statement of M.W. I and the pleadings of the opposite party. In their pleading they had not made a specific denial. But stated that the bank may engage casual labour that so ever may be available when such necessity arises in any of the branch of the bank. If the applicant did not present himself for work, bank cannot wait for him and engage anybody else who is found available. Though, no such evidence has been given by M.W. I of the opposite party. If I take these pleading in the light of evidence adduced by the workman and fact proved as above, then he had been continuously working till 12-9-98. Version of the opposite party that no seniority is maintained regarding casual labour. In this regard I would like to say that the legislature has given certain rights to the retrenched workmen. The relevant provisions are Section 25G and 25H. Section 25 G provide—where any workman in an industrial establishment who is a citizen of India is to be retrenched and he belongs to a particular category of workman in that establishment in the absence of any agreement between the employer and workman in this behalf the employer shall ordinarily retrenched the workman who was the last person to be employed in that category unless for reasons to be recorded the employer retrenches any other workman. The provisions are mandatory. It is expected that the management shall prepare a list of such workmen and shall give the reasons. Similarly Section 25H provides—where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, given an opportunity to the retrenched workman who are citizens of India to offer themselves for re-employment if such retrenched workman who offer themselves for re-employment shall have preference over other persons. On this point also the claimant has discharged his burden to the extent possible. Now it was for the opposite party, to whom the burden has shifted to prove otherwise. If the opposite party was of an affirmative view that no such person in the name of Rajesh has been employed or engaged by that branch, they could have produced the record of that branch but no such record has been produced. Even no officer from the concerned branch has been produced in evidence. Therefore, in my view the evidence produced by the workman on this point also appears to be believable and also there is no evidence that the opposite party has given any opportunity to retrenched workers according to the provisions of Section 25H. Therefore, it appears to be violation of the provisions of Section 25G and 25H of the Act.

27. Therefore, considering the all evidence and circumstances of the case it is found that the action of the

management of Bank of India was not justified in terminating the services of the claimant who was engaged as a casual worker on daily rated basis. Therefore, he is entitled to be reinstated with 50% back wages.

Reference is answered accordingly in above terms in favour of the workman and against the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1133.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार पंजाब नैशनल बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 14/08) को प्रकाशित करती है, जो केंद्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-12011/153/2006-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1133.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/08) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 18-3-2011.

[No. L-12011/153/2006-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Present : N. K. PUROHIT, Presiding Officer

I.D. 14/08

Reference No. L-12011/153/2006-IR(B-II)

dated : 6-6-2008

The Zonal Secretary
Rajasthan Pradesh Bank
Workers Organisation
C-13, Ojhaji Ka Bagh,
Gandhi Nagar Mod, Jaipur.

V/s

The Regional Manager
Punjab National Bank,
Regional Office,
802, Angira Darpan,
1st Floor, Chopasni Road,
Jodhpur.

AWARD

25-2-2011

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial Dispute to this tribunal for adjudication which is as under :—

“Whether the action of the management of Punjab National Bank, Jodhpur in not transferring Shri Girdhari Karamchandani, Special Assistant who is suffering from serious heart ailment from Beaver to Ajmer Branch is just and legal. If not, what relief the concerned workman is entitled to?”

2. In pursuance of the reference order, registered notices were issued to both the parties. On perusal of proceedings of the case it reveals that registered notice was sent to the Zonal Secretary, Rajasthan Pradesh Bank Workers Organization on the address mentioned in the reference order and the same has been served upon him, but none appeared on behalf of the applicant union on 22-2-2011 despite service of registered notice. Therefore, ex-party proceedings were drawn against the applicant union. It further reveals that Shri Surendra Singh appeared on behalf of the non-applicant and file his authority letter on 16-12-2010. Since no claim was filed on behalf of the applicant union, the non-applicant also did not file any statement.

3. Heard learned representative on behalf of the non-applicant.

4. Once the reference has been made it is obvious from the scheme of the Act and the Rules that even though a party has been placed ex-party, the Tribunal has to pronounce the dispute and record its findings with respect to that matter and reference cannot be rejected but in present matter the applicant union has not filed any claim statement and there is nothing that the Tribunal can adjudicate upon in the absence of the pleadings and evidence of any of the parties. It appears that the union is not interested in pursuing the matter. Therefore, in such a situation the tribunal has no option except to record “No Dispute Award” or “No Claim Award” and it is not possible to adjudicate the reference under consideration on merits.

5. In view of above “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

6. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1134.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 148/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/223/2003-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1134.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 148/2004) of the Central Government Industrial Tribunal/Labour Court-1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Punjab & Sind Bank and their workmen, which was received by the Central Government on 18-3-2011.

[No. L-12012/223/2003-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
Presiding Officer,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT 1, CHANDIGARH
Case I. D No.148/2K4

Sh. Ranjit Singh
S/o Sh. Atma Singh,
C/o General Secretary,
AITUC, Chowk, Dholewal,
LudhianaApplicant

Versus

The Manager,
Punjab and Sind Bank,
Lajpat Rai Road,
Jagraon, Distt. LudhianaRespondent

APPEARANCES:

For the Workman : : Shri. O. P. Mehta
For the Management : : Shri. J. S. Sathi

AWARD

Passed on : 8-3-2011

The reference was referred by Central Government vide notification No. L-12012/223/2003-IR(B-II) dated 8-3-2004 as follows :

“Whether the action of the management of Punjab and Sind Bank Jagraon in terminating the service of Shri Ranjit Singh S/o Shri Atma Singh, Daily Wager w.e.f. 22-12-2002, without any notice and without any payment of retrenchment compensation from the services of the bank is illegal and unjustified? If so, what relief the concerned workman is entitled to and from which date?”

The case of workman in nutshell is that he was engaged on daily wages by the Manager of the branch of management bank on 1-1-1999. His services were terminated without notice or one month wages in lieu of notice and without payment of lawful compensation on 22-12-2002. He was continuously working during the entire period and had completed 240 days of work in every calendar year including the year prior to the date of his termination. As per workman his termination from service was illegal and void ab initio being against the provisions of Section 25 F of the Industrial Disputes Act. The management appeared and opposed the claim by filing written statement. In preliminary submissions by citing certain decisions of Hon'ble High Court of Punjab and Haryana and Hon'ble Supreme Court, the management has stressed on the issue that workman was not initially lawfully appointed. It is the contention of the management that even if the workman has worked on daily wages he cannot claim for regularization of the services because his initial appointment was illegal. On merits it is nowhere denied in WS that workman had not completed 240 days of work in preceding year from the date of termination. Both of the parties were afforded the opportunity for adducing evidence. The statement of the workman was recorded in open court. On behalf of the management one Sh. G. S. Gill filed an affidavit and his cross-examination was recorded on oath in open Court. The management failed to provide the original documents. The workman has filed photocopies of certain documents to prove his work with the management and payment of wages by the management. I have heard the parties at length. It is hereby made clear that management has admitted that workman was engaged on casual basis on daily wages. As stated earlier, it is nowhere denied that the workman had not completed 240 days of work in the preceding year from the date of his termination. Photocopies of certain documents were filed by the workman. The genuineness of these photocopies was not challenged by the management. Moreover, management failed to provide with the original documents relating to the services of workman. The management has opposed the claim of the workman on three accounts.

- (1) The initial appointment of workman was illegal, hence, he cannot pray for regularization of his services.
- (2) The bank launched a scheme for regularization of the service of every workman who had completed 240 days of work in the preceding year of cut-off date of policy. As the case of workman was not considered, now he is not entitled for protection of provisions of Industrial Disputes Act.
- (3) Workman was appointed purely on casual basis and he is not entitled as such for the protection of provisions of the Act on the basis of the law cited in WS and affidavit of the management.

I am not inclined to accept any of the contentions pleaded by the management. It is not open to the management to challenge the claim of the workman on the ground of illegality of initial appointment because the matter before this Tribunal is not for the right of regularization of service of workman. The reference referred by the Central Government is regarding the illegality of termination of daily waged worker. These two rights of any employee are quite different, namely the right to protection of his work and the right to regularization of services. The regularization of the services of any employee is within the domain of the employer and it cannot be claimed as right unless and until the rules relating to the regularization of the services applicable to employer and employee have not been violated. This Tribunal in this case cannot decide the question of regularization of the service. This Tribunal is only competent to decide the issue of protection of right to work.

Both the rights namely protection of right of work and protection of regularization of service are also different in nature. The protection of regularization of services is succeeded with the right to post, whereas, the protection of right to work has no concern with the right to post. The casual worker has no right to post is a settled law of service jurisprudence. Thus, while discussing the right of protection of work discussion right to post is not necessary. Casual work can be taken from any employee even without creating any post and if such work is continuously available the workman cannot be denied this right arbitrarily.

The Industrial Disputes Act does not prohibit the termination of services of casual workers. The Industrial Disputes Act regulates the termination. It is regulated in the sense that if a casual worker is appointed for a particular work and he has worked for a substantial period and had completed 240 days of work in the preceding year, his services cannot be terminated without giving him a month notice or one month wages in lieu of notice and without payment of lawful terminal dues. If it is done the termination will be illegal and void ab initio.

As stated earlier, it is not denied by the management that workman had not completed 240 days of work in the preceding year from the date of his termination. It is not the case of the management that before terminating his services a month notice or one month wages in lieu of notice and lawful terminal dues were paid. This Act of the management makes the termination illegal and void ab initio.

The management has raised another contention that services of the workman were not considered to be regularized as per the policy taken by the management in the year 1989. The management has himself informed this Tribunal cut-off date in policy as 31-12-1989. Meaning thereby, all casual employees who have completed 240 days of work in the preceding year to 31-12-1989 were entitled for the regularization of services. The workman was engaged by the Manager of the branch on 1-1-1999. Hence,

his case was not rightly covered by the management in the said scheme. But that does not give any legal right to management to terminate the services of the workman arbitrarily.

The third issue raised by the management is that a casual worker is not entitled for the protection of the provisions of the Act. I am not inclined to accept this contention because the Industrial Disputes Act does not make any difference for the protection of rights of a casual daily waged worker and other workers. The rights of casual workers are very much protected by the Industrial Disputes Act.

The law cited by the management in written statement and affidavit is not applicable in this case because in the cited law right to regularization of the service was discussed by the Hon'ble Courts, whereas, this Tribunal is discussing the right to work and not the right to regularization.

Accordingly, the termination of the workman from the service was bad in law. The remedy available for the violation of rights of the workman lies in the order for reinstatement of the workman or a reasonable compensation. It is a settled law service jurisprudence that priority should be given for the reinstatement of the workman on the same position he was working at the time of termination. In exceptional and aspiring cases the workman should be provided with the reasonable compensation. This exceptional case will be where the work is not available. It is not the case of the management that work was not available. Accordingly, I am directing the management to reinstate the workman on the same position he was working prior to his termination within one month from the date of publication of Award. Let Central Govt. be approached for publication of Award, and thereafter, file be consigned.

Chandigarh

G. K. SHARMA, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1135.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारा/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 109/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/51/2005-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1135.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/05) of the Central Government Industrial Tribunal/Labour

Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 18-3-2011.

[No. L-12012/51/2005-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

I.D. 109/05

Reference No. L-12012/51/2005-IR(B-II)

dated : 29-8-2005

Shri Guddu Hella
S/o Shri S. Hasan Hella
House No. 12, Kanod Ki Haveli,
Kanji Ka Hatta, Udaipur

.....Applicant

V/s

Indian Overseas Bank
The Sr. Regional Manager, IOB,
Regional Office, D-23 A,
Prithviraj Road,
C-Scheme, Jaipur (Raj.)

....Non-Applicant

PRESENT:

Presiding Officer : Sh. N. K. Purohit
For the Applicant : Sh. Vinod Goyal
For the Non-applicant : Sh. A. S. Khangarot

AWARD

21-2-2011

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication which runs as under :—

“Whether the claim of Shri Guddu Hela that he was engaged during the period from 1-8-1995 to 10-3-2003 by the management of Indian Overseas Bank, Jaipur is correct? Whether the action of the management in terminating the services of Sh. Guddu Hela, S/o Harsan Hela, Part-time Sweeper on 10-3-2003 is legal and justified? If not, to what relief the concerned workman is entitled?”

2. The applicant has pleaded in his claim statement that he was engaged as a part-time sweeper on 1-8-95 at Panchsheel Marg branch, Udaipur, but he was required to perform full time duty of a class IV employee and was being

paid monthly salary on the basis of Rs. 50 per day. He has further pleaded that his application for the post of regular class IV employee was not considered merely on technical ground and he had to file a civil suit in the court of civil judge (J.D.), Udaipur for including his name in the list of candidates called for interview. Though he was allowed to appear in the interview vide interim order dated 30-11-99 yet, the non-applicant did not declare his result. Subsequently, on assurance of the non-applicant that regular appointment would be given, he withdrew his suit on 31-8-2000. He has also pleaded that despite he had worked for about eight years from 1-8-95 to 10-3-2003 and had worked for more than 240 days in each calendar year, his service was terminated on 10-3-2003 in violation of section 25 (F) and another person Shri Ambalal Magda has been engaged in his place in violation of the section 25(H) of I.D. Act. The applicant has prayed to reinstate him with full back wages and other consequential benefits.

3. The non-applicant in its reply has contended that neither the applicant was appointed as part-time sweeper nor the work of class IV employee was ever performed by him. It has been further contended that the services of the applicant were taken on need basis during absence or leave period of regular sweeper. Therefore, the provisions of sections 25(F) & 25(G) are not attracted in the matter of the applicant.

4. Heard the learned representatives on behalf of both the parties and perused the record.

5. In evidence, the applicant has submitted his affidavit whereas the management has submitted the affidavit of Shri Ramswaroop, Senior Manager in support of their respective case. In documentary evidence the applicant has produced documents Ex.W-1 to W-6.

6. In view of rival pleadings of both the parties, the questions crop-up for determination are as under:-

- I. Whether the applicant had continuously worked from 1-8-95 to 10-3-2003 and had also completed 240 days of actual service with the non-applicant during the calendar year preceding his termination whose service was terminated in violation of section 25(F) of the I.D. Act ?
- II. Whether non-applicant has employed Shri Ambalal without affording opportunity of reemployment to the applicant in violation of section 25(H) of I.D. Act ?
- III. To what relief the applicant is entitled to?

Point No. I

7. The applicant has deposed in his affidavit that he was engaged as a part-time sweeper on 1-8-95 who continuously worked up to 10-3-2003 and has completed 240 days in each calendar year but his service was orally terminated on 10-3-2003 without any notice or

compensation in lieu of notice in violation section 25(F) of the I.D. Act.

8. In support of his testimony the applicant has also led the documentary evidence and has produced Ex-1 to Ex-6 on record. Ex-W-1 is an interim order of the civil judge (J.D.), Udaipur dated 30-10-96 wherein directions were given to non-applicant for allowing the applicant to appear in interview held for regular post of sweeper. Ex-W-2 is a copy of Branch Managers' letter dated 13-3-97 wherein the particulars regarding the applicant including his working days were furnished to the Regional Office. Ex-W-3 is a letter written to Assistant Director Employment Exchange, Udaipur for furnishing list of candidates for temporary vacancy for sweeper Ex-W-4 to Ex-W-6 are letters of correspondence between the Regional Office and the Branch Manager of the bank. Vide letter Ex- W-4 dated 6-2-99 the Regional Office, Jaipur was requested for engaging the applicant in the branch as part-time sweeper. Certain clarifications were sought in this regard by the Regional Office vide letter dated 22-5-2000 Ex-W-5 and in response to said letter the copies of the memo dated 6-2-99, list of Employment Exchange and the transfer certificate were furnished by the senior manager vide his letter dated 25-5-2000 Ex-W-6.

9. Controverting the evidence of the applicant the management witness Shri Ramswaroop has stated that the applicant was neither appointed as part-time sweeper nor any appointment letter was given to him. The services of the applicant were taken on casual basis in absence period of the regular sweeper Shri Raju Tejwani. He has further stated that no assurance for regularization of service was ever given to the applicant. Therefore, question did not arise for his alleged termination. He has further stated that the applicant had never worked for 240 days during any calendar year.

10. The learned representative for the applicant has submitted that from the deposition of the applicant supported by documentary evidence, it is established that the applicant had worked with the non-applicant during period from 1-8-95 to 10-3-2003 and he has completed 240 days in each calendar year. He has also submitted that it has been admitted by the management witness in his cross-examination that the applicant had worked under the non-applicant in absence of regular sweeper Shri Raju Tejwani.

11. Per contra, the learned representative for the non-applicant bank has urged that there is no documentary evidence in support of the contention of the applicant that he had worked for 240 days during preceding 12 months from the date of his termination i.e. 10-3-2003. He has further urged that the applicant has also failed to prove on the strength of the documentary evidence adduced by him that he had rendered uninterrupted service during a period of one year. He has also urged that the applicant had been engaged for a temporary and casual worker on need basis & provisions of Section 25-F are not attracted.

12. I have bestowed my thoughtful consideration on the submissions canvassed by the learned representative for both the parties and scanned the documentary evidence.

13. To attract the provisions of Section 25 (F) of I.D. Act one of the condition required is that the workman is employed in any industry for a continuous period which would not be less than one year. Under sub clause (1) of the Section 25(B), if a workman has put in uninterrupted service of establishment including the service which may be interrupted on account of sickness, authorize leave, accident, a strike which is not illegal, a lock out or secession of work that is not due to any fault on the part of the workman shall be said to be in continuous service for one year i.e. 12 months in respect of number of days he has actually worked with interrupted service permissible under sub-section(1) of Section 25(B).

14. It is not the case of the applicant that he was in continuous service of the non-applicant for one year within the meaning of sub-section (1) of Section 25(B) of I.D. Act. The applicant has pleaded that he had worked for 240 days in each calendar year during period from 1-8-95 to 10-3-03. He has never contended that he was regularly employed in the non-applicant for one year to claim the uninterrupted period of service as required under Section. 25 (B)(1) of the Act. Moreover from the documents Ex-2 produced by him, it is evident that during period 1-9-95 to 13-3-97 he had worked for 426 days only with one day break in each month out of total 559 days. Thus, even from evidence led by him it is not established that he was in continuous uninterrupted service for one year as envisaged under sub-section (1) of Section 25 (B) of I.D. Act.

15. Thus, the scope of enquiry is now confined to only 12 months preceding the date of termination to consider the questions whether the case of the applicant falls under sub-section (2) of Section 25 (B) and attract the provisions under Section 25 (F) of I.D. Act. Section 25 (B)(2) says that even if a workman has not been in continuous service for a period of one year as envisaged under sub-section (1) of Section 25 (B) of I.D. Act, he shall be deemed to have been in such continuous service for a period of one year if he has actually worked under the employer for 240 days in preceding period of twelve months from the date of his termination.

16. It is well settled that initial burden of proof that the workman had worked for 240 days in a year preceding the date of termination lies on the workman and he has to discharge that burden on the basis of cogent evidence.

17. In present case, the applicant has deposed that his service was terminated on 10-3-03 without any notice or compensation in lieu of notice. Therefore, initial burden was on him to prove that he had worked for 240 days during preceding twelve months from the said date of termination. The workman has stated in his cross-examination that he was required to sign on payment vouchers and in

attendance register but he has not produced any proof of receipt of salary or wages for 240 days or copy of attendance register. He also did not move any application to call for production of such documents from the non-applicant. Under these circumstances no adverse inference can be drawn against the non-applicant for non-production of said documents.

18. The management witness has denied this fact that the applicant had worked for 240 days in any calendar year though he has admitted in cross-examination that during absence of regular part time sweeper the applicant had worked with non-applicant. Therefore, it was for the applicant to prove that during period of 12 months from the date of his alleged termination i.e. 10-3-03 he had at least worked, for 240 days but the documents Ex-1 to Ex-6 produced by the applicant are pertaining to period from 1-8-95 to 25-5-2000 only. The applicant has not produced any document pertaining to period from 26-5-2000 to 10-3-03. Thus, there is no documentary evidence on record to support his contention that during proceeding twelve months from the date of his alleged termination i.e. 10-3-03 he had worked for 240 days. Mere deposition on affidavit is only his own statement in his favour which cannot be regarded as sufficient evidence to come to the conclusion that the applicant had in fact worked for 240 days in a period of preceding one year from the date of his termination i.e. 10-3-03. Thus, the applicant has failed to discharge his burden that he was in employment for 240 days during said period i.e. from 10-3-02 to 9-3-03 and as such he had worked continuously for one year as required under Section 25 (F) within the meaning of sub-section (2) of Section 25 (B) of I.D. Act. Therefore, this point is decided against the applicant.

Point No. II

19. The applicant has pleaded in Para 10 of his claim statement that non-applicant has employed Shri Ambaiai Magda in his place after alleged termination on 10-3-03 but in this regard he has not stated anything in his affidavit submitted in support of his claim. Mere pleadings are no substitute for proof. Therefore, the applicant has failed to prove alleged violation of provisions under Section 25(H) of I.D. Act and this point is also decided against him.

20. In view of above discussions and findings on point No. I & II, the applicant has failed to prove that alleged action of the management was in violation of Section 25(F) or 25(H) of the I. D .Act.

21. In the result, the reference is answered in negative against the applicant and in favour of the non-applicant Bank. Resultantly, the applicant is not entitled for any relief. The reference under adjudication is answered accordingly.

22. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1136.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 14/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2011 को प्राप्त हुआ था।

[सं. एल-12011/133/2005-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1136.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2006) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers of relation to the management of UCO Bank and their workman, which was received by the Central Government on 18-3-2011.

[No. L-12011/133/2005-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 14 of 2006

Parties: Employers in relation to the management of
UCO Bank
AND
Their Workmen

PRESENT:

Mr. Justice Manik Mohan Sarkar, ... Presiding Officer

APPEARANCE:

On behalf of the : None
Management

On behalf of the : None
Workmen

State : West Bengal

Industry : Banking

Dated : 10th March, 2011

AWARD

By Order No.L-12011/133/2005-IR(B-II) dated 20-4-2006 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether Sh. Subir Adhikary who claims to have been working as casual part-time Sweeper in UCO Bank, Beadon Street Branch, Kolkata since 8-9-1998 is entitled for regularization as sub-ordinate staff in

the bank or not? If not, to what relief he is entitled?”

“Whether the action of the management of UCO Bank in utilizing a part time casual Sweeper. Sh. Subir Adhikary for full time jobs, peon jobs without entering their name in the muster roll of the bank, and making the payments of vouchers to deny their right for regularization, whether amounted to unfair labour practice? If not, to what relief he is entitled?”

2. None is present for either of the parties on call today. On perusal of the record it is found that notice was duly served upon the Workmen Association in May, 2010, even then the workman concerned or the Workmen Association representing the workman has not appeared nor has taken any step in the matter. After service of notice, four dates were adjourned to ascertain the appearance of the parties, specially the Workmen Association, but on none of the dates there is any step on behalf of the workman, nor anybody has appeared on behalf of the Workmen Association. So, it is found that the workman side is reluctant to proceed with the matter and such conduct gives an impression that the dispute which was raised earlier in the order of reference, might not have survived and for that reason no step is being taken. So, it is presumed that there is no industrial dispute at present. In such circumstance, the present reference is disposed of by treating non-existence of any industrial dispute.

An Award is passed accordingly.

Dated, Kolkata,
the 10th March, 2011

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 29 मार्च, 2011

का.आ. 1137.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मास्रक बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या 40/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/115/2003-आई आर (बी-I)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1137.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2003) of the Central Government Industrial Tribunal-cum-Labour Court-1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers of relation to the management of Mashreq Bank and their workman, received by the Central Government on 28-3-2011.

[No. L-12012/115/2003-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1

MUMBAI

JUSTICE GS. SARRAF

Presiding Officer

REFERENCE NO. CGIT-1/40 OF 2003

Parties : Employers in relation to the management of Mashreq Bank

And

Their Workman (Mrs. Leena Aranha)

APPEARANCES :

For the Management : Shri. M.M. Gujjar, Adv.

For the workman : Mrs. P.S. Shetty, Adv.

State : Maharashtra

Mumbai, dated the 9th day of March, 2011

AWARD

1. In exercise of powers conferred under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act 1947 (hereinafter referred to as the Act) the Central Government has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the Management of Mashreq Bank, Mumbai in terminating the services of Mrs. Leena Aranha w.e.f 12-6-2002 is justified? If not, what relief Ms. Leena Aranha is entitled to?”

2. As per the statement of claim submitted on behalf of the second party Mrs. Leena Aranha she was offered appointment by the first party bank on 11-5-1987 as a Steno-cum-Telephone Operator on a total salary of Rs.1,320 as per periodical allocation of departments for clerks she was asked to perform the duties of posting the entries in the clearing, current account ledgers, deposit accounts and also work in the cash department which was inclusive of teller services. She was also asked to undergo training under Customer Care Workshop conducted by the Training Department of the first party bank in her capacity as a clerk. She performed the duties of stenographer as well as of clerk during her service period. She performed her duties with the first party bank to the best of her ability and to the satisfaction of her superiors. On 13-6-2002 she was not allowed to record her attendance for the day and she was served with a letter dt. 13-6-2002 by the bank authorities enclosing therewith a notice dt. 12-6-2002 informing her that she had been retrenched from the services of the bank w.e.f. 12-6-2002. According to her the act of termination of her service by way of retrenchment is illegal, unjustified and contrary to the mandatory provisions of the Act in as much as the seniority list was not displayed as required under the rules nor was the so called seniority list proper. She has stated that the first party bank failed to follow the principle of “last come first go” before retrenching her. It has also been alleged that the amount paid to her as

retrenchment compensation was not calculated on the basis of her total services and illegal deductions were made from the retrenchment compensation. She has, therefore, prayed that the retrenchment order dated 12-6-2002 be quashed and she be reinstated w.e.f. 12-6-2002 with full back wages, consequential benefits and continuity of service.

3. The bank has submitted written statement stating therein that in India the bank has two branches one at Delhi and another at Mumbai and the bank engages twelve employees in total at both the branches as on date. The management of the bank after considering all the factors prevailing announced a VRS scheme in the month of January 1999. A majority of the employees responded to the same. In all about twenty three employees opted for VRS and collected their dues in full and final settlement. The second party did not apply under the VRS scheme and did not avail the benefits thereof. The bank was facing rough weather in the form of severe competition, narrowing interest margins, high operating costs and non-performing assets amongst others. Hence the bank was constrained to reconsider its business strategy to ensure the bank's survival. The bank displayed a seniority list dt. 22-4-2002 a copy of which was given to all the employees of the bank including the second party and her union Bhartiya Kaamgar Sena. The union responded to the said seniority list vide letter bearing no. 716 dt. 24-4-2002 raising frivolous and untenable objections. On 30-4-2002 the bank received individual letters from eight employees including the second party raising vague allegations in respect of the said seniority list. The management replied by its letter dt. 4-5-2002 to each of the eight employees including the second party. However, all of them refused to receive the said letters. The bank then sent a letter by speed post A.D. but the second party refused to accept the postal packet containing the said letter. In the circumstances, the bank was constrained to forward a copy of the said letter under cover of its letter dt. 24-5-2002 to the Bhartiya Kaamgar Sena. According to the written statement, on 12-6-2002 at around 5.30pm the management attempted to serve notice of retrenchment, statement of accounts along with payment of money due by way of cash to four employees including the second party after deduction of taxes at source. The second party refused to accept the above. The bank then sent the notice with all enclosures and payment by way of pay order by post at the last known address of the second party. The second party received the communication and encashed the pay order. Meanwhile, the local management of the bank received legal advice from the tax consultants of the bank in respect of the tax payable by the concerned employee and thereafter the bank re-computed the legal dues. The bank issued pay order in respect of the excess tax which was inadvertently deducted and forwarded the same by speed post A.D. to the second party and the second party encashed this pay order also. According to the written statement the bank has complied with the provisions of

Section 25-F of the Act serupulously and, therefore, the order of retrenchment is legal, justified and proper.

4. The second party has filed rejoinder wherein she has denied certain allegations made in the written statement.

5. The second party Mrs. Leena Aranha filed her affidavit and she was cross-examined by learned counsel for the first party whereas the first party bank filed affidavit of Godrej Mistry in reference no.38 of 2003 which by the order of this Tribunal could be read in this reference and he was cross-examined by learned counsel for the second party.

6. Heard learned counsels for the parties.

7. In the statement of claim the termination of the second party has been challenged on the ground of non-compliance of the provisions of Section 25-F of the Act but learned counsel for the second party has not at all argued that the retrenchment compensation given to the second party is not in conformity with the provisions of Section 25-F of the Act. Her contention is that there is unity of management, unity of ownership and unity of accounts and, therefore, the seniority list of Mumbai branch only is illegal and a composite list of seniority should have been prepared for both the branches Mumbai as well as Delhi. She has also contended that the second party is a clerk and in that category the persons junior to her have been retained and thus the principle of "last come first go" as contained in Section 25-G of the Act has not been followed and as such the retrenchment of the second party is illegal and unjustified.

8. There is no pleading in the statement of claim that a composite list of seniority should have been prepared for Mumbai branch as well as Delhi branch of the bank and that a seniority list prepared only for the Mumbai branch of the bank is illegal. The first party has thus been deprived of an opportunity to give a proper reply and an opportunity to adduce evidence if necessary. Learned counsel for the second party is, therefore, precluded from raising this contention at this belated stage. If unity of ownership, management and accounts can be the basis for composite seniority list then there should be a composite seniority list inclusive of all the branches of the bank in the world. I am of the opinion that there is no material on record to sustain the argument that the seniority list as prepared by the first party bank is bad in law as it is not a composite list of Mumbai branch as well as of Delhi branch of the bank.

9. The second party Mrs. Leena Aranha states in her affidavit that she was offered an appointment by the first party bank on 11-5-1987 as a Steno-cum-Telephone Operator and that a copy of the letter containing offer of appointment is Ex. W-1. However, in cross-examination she states that she joined as a Steno/Clerk. Her statement in the affidavit and her statement in the cross-examination are materially different. How could she join Steno/Clerk when the appointment offered to her was for the post of Steno-cum-Telephone Operator. In the statement of claim

filed by the second party, in her affidavit and in the letter containing offer of appointment Ex. W-1 the post is that of Steno-cum- Telephone Operator and not of Steno-cum-Clerk. Though in the circular EX. W-2 the second party has been depicted as a clerk but it will be seen that this circular is not signed by anyone and such circular cannot change the status of a workman. As regards identity card Ex. W-3, the second party has not been described as Steno-cum-Clerk but the card appears to have been issued for Steno/Clerk meaning thereby that the same card has been issued for Steno as well as Clerk. It thus becomes clear that the second party was a Steno-cum- Telephone Operator and she was not in the category of clerk. If that is so, then it cannot be said that any person junior to her has been retained because no other person except her is in the category of Steno-cum- Telephone Operator.

10. For the reasons, stated above, I do not agree with learned counsel for the second party that the first party bank has not followed the principle of "last come first go" as contained in Section 25-G of the Act.

11. Moreover, this is also to be noted that the second party has received the retrenchment compensation long back.

12. In view of the above discussion, I have come to the conclusion that the action of the management of the bank in terminating the services of the second party by way of retrenchment cannot be said to be unjustified and there is no ground to hold otherwise.

13. Consequently, the reference is answered in affirmative and it is held that the action of the management in terminating the services of the second party is not unjustified.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली 29 मार्च, 2011

का.आ. 1138.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मास्क बैंक के प्रबन्ध तंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या 39/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/116/2003-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 29th March, 2011

S.O. 1138.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2003) of the Central Government Industrial Tribunal-cum-Labour Court-1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Mashreq Bank and their workmen, received by the Central Government on 28-3-2011.

[No. L-12012/16/2003-IR (B-D)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1

MUMBAI

JUSTICE G. S. SARAF
Presiding Officer

REFERENCE NO. CGIT-1/39 OF 2003

PARTIES : Employers in relation to the management of Mashreq Bank

AND

Their Workman (Mrs. Santosh Talgaonkar)

APPEARANCES:

For the Management : Shri. M.M. Gujjar, Adv.
For the workman : Mrs. P.S. Shetty, Adv.
State : Maharashtra

Mumbai, dated the 9th day of March, 2011

AWARD

1. In exercise of powers conferred under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) the Central Government has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the Management of Mashreq Bank, Mumbai in terminating the services of Shri Santosh Talgaonkar w.e.f. 12-6-2002 is justified? If not, what relief Shri Santosh Talgaonkar is entitled to?”

2. As per the statement of claim submitted on behalf of the workman Santosh Talgaonkar he joined as a peon in the first party bank at its Mumbai branch on 12-8-1991 and he performed his duties to the best of his ability and to the satisfaction of his superiors. On 13-6-2002 he was not allowed to record his attendance and he was served with a letter dt. 13-6-2002 enclosing therewith a notice dt. 12-6-2002 informing him that he had been retrenched from the services of the bank w.e.f. 12-6-2002. According to him the act of termination of his services by way of retrenchment is illegal, unjustified and contrary to the mandatory provisions of the Act in as much as the seniority list was not displayed as required under the rules nor was the so called seniority list proper. He has stated that the first party bank failed to follow the principle of “last come first go” before retrenching him. It has also been alleged that the amount paid to him as retrenchment compensation was not calculated on the basis of his total services and illegal deductions were made. He has, therefore, prayed that the

retrenchment order dated 12-6-2002 be quashed and he be reinstated w.e.f. 12-6-2002 with full back wages, consequential benefits and continuity of service.

3. The bank has submitted written statement stating therein that in India the bank has two branches one at Delhi and another at Mumbai and the bank engages around twelve employees in total at both the branches as on date. The management of the bank after considering all the factors prevailing announced a VRS scheme in the month of January, 1999. A majority of the employees responded to the same. In all about twenty three employees opted for VRS and collected their dues in full and final settlement. The second party did not apply under the VRS scheme and did not avail the benefits thereof. The bank was facing rough weather in the form of severe competition, narrowing interest margins high operating costs and non-performing assets amongst others. Hence the bank was constrained to reconsider its business strategy to ensure the bank's survival. The bank displayed seniority list dt. 22-4-2002 a copy of which was given to all the employees of the bank including the second party and his union Bhartiya Kaamgar Sena. The union responded to the said seniority list vide letter bearing No. 716 dt. 24-4-2002 raising frivolous and untenable objections. On 30-4-2002 the bank received individual letters from eight employees including the second party raising vague allegations in respect of the said seniority list. The management replied by its letter dt. 4-5-2002 to each of the eight employees including the second party. However, all of them refused to receive the said letters. The bank then sent the letter by speed post A.D. but the second party refused to accept the postal packet containing the said letter. In the circumstances, the bank was constrained to forward a copy of the said letter under cover of its letter dt. 24-5-2002 to the Bhartiya Kaamgar Sena. According to the written statement, on 12-6-2002 at around 5.30pm the management attempted to serve notice of retrenchment, statement of accounts along with payment of money due by way of cash to four employees including the second party after deduction of taxes at source. The second party refused to accept the above. The bank then sent the notice with all enclosures and payments by way of pay order by post at the last known address of the second party. The second party received the communication and encashed the pay order. Meanwhile, the local management of the bank received legal advice from the tax consultants of the bank in respect of the tax payable by the concerned employee and thereafter the bank re-computed the legal dues. The bank issued pay order in respect of the excess tax which was inadvertently deducted and forwarded the same by speed post A.D. to the second party and the second party encashed this pay order also. According to the written statement the bank has complied with the provisions of Section 25-F of the Act scrupulously and, therefore, the order of retrenchment is legal, justified and proper.

4. The second party has filed rejoinder wherein he has denied certain allegations made in the written statement.

5. The second party Santosh Talgaonkar filed his affidavit and he was cross-examined by learned counsel for the first party whereas the first party bank filed affidavit of Godrej Mistry in reference No. 38 of 2003 which by the order of this Tribunal could be read in this reference and he was cross-examined by learned counsel for the second party.

6. Heard learned counsels for the parties.

7. Learned counsel for the second party has contended that the seniority list was prepared with respect to the Mumbai branch only whereas considering unity of ownership, unity of management and unity of accounts a composite list of seniority should have been prepared for both the branches Mumbai as well as Delhi. She has argued that since a composite seniority list has not been prepared the principle of "last come first go" as contained in Section 25-G of the Act has not been followed and as such the retrenchment of the second party is illegal and unjustified. Secondly, she has contended that as per the statement of accounts of the second party Santosh Talgaonkar statutory retrenchment compensation has been shown to be Rs.36,254 whereas net amount paid to him is Rs.9,953 and as such the mandatory provisions of Section 25-G (b) have not been complied with and, therefore, the retrenchment order is illegal which deserves to be set aside.

8. There is no pleading in the statement of claim that a composite list of seniority should have been prepared for Mumbai branch as well as Delhi branch of the bank and that a seniority list prepared only for the Mumbai branch of the bank is illegal. The first party has thus been deprived of an opportunity to give a proper reply and an opportunity to adduce evidence if necessary. Learned counsel for the second party is, therefore, precluded from raising this contention at this belated stage. If unity of ownership, management and accounts can be the basis for composite seniority list then there should be a composite seniority list inclusive of all the branches of the bank in the world. I am of the opinion that there is no material on record to sustain the argument that the seniority list as prepared by the first party bank is bad in law and that the principle of "last come first go" has not been adhered to in this case. There is thus no force in her first argument.

9. In the statement of account of the second party Santosh Talgaonkar statutory retrenchment compensation has been shown to be Rs.36,254 whereas the net amount payable to him has been shown to be Rs.9,953. It is not disputed that Rs. 9,953 only has been paid to the second party by way of retrenchment compensation. The witness of the first party bank Godrej Mistry states in his cross-examination: "At page No. 7 list of documents dated 14-3-2004, case No. Ref. 39 is the statement of account pertaining to Mr. Santosh Talgaonkar. Retrenchment compensation in it has been shown as Rs.36,254. The total amount the workman got after full deduction as detailed in it is Rs.9,953 only. The deduction is towards loan against the workman". There is no document or any other evidence

to support this statement that the deduction is towards loan amount. As a matter of fact learned counsel for the first party bank has avoided to give a straight answer to the question that why Rs.9,953 only were paid to the second party when the statutory retrenchment compensation was computed as Rs.36,254 Since the statutory retrenchment compensation as computed by the first party bank itself has not been paid to the second party, therefore, it is clear that the mandatory provisions of Section 25-F(b) of the Act have not been complied with.

9. The retrenchment brought about without compliance of Section 25-F(b) of the Act is no retrenchment in the eye of law.

10. This conclusion leads us to the question as to what relief the second party is entitled to.

11. The workman is obviously entitled to reinstatement with continuity of service.

12. As regards the back wages, admittedly the second party is gainfully employed. In view of this and considering all the facts and circumstances of the case I am not inclined to grant back wages to the second party.

13. Consequently, the first party is directed to reinstate the second party workman Santosh Talgaonkar within a period of two months from today and give him the benefit of continuity of service.

14. An award is made accordingly.

JUSTICE G. S. SARAF, Presiding Officer

नई दिल्ली, 31 मार्च, 2011

का.आ. 1139.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मास्टक बैंक के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई के पंचाट (संदर्भ संख्या 38/03, 41/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2011 को प्राप्त हुआ था।

[सं. एल-12012/118/2003-आई आर (बी-1),
सं. एल-12012/117/2003-आई आर (बी-1)],
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 31st March, 2011

S.O. 1139.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/03, 41/03) of the Central Government Industrial Tribunal-cum-Labour Court-1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mashre Bank and their workman, received by the Central Government on 28-3-2011.

[No. L-12012/118/2003-IR(B-1),
L-12012/117/2003-IR(B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1

MUMBAI

JUSTICE G. S. SARRAF,
Presiding Officer

REFERENCE NO. CGIT-1/38 OF 2003

And

Reference No. CGIT-1/41 of 2003

Parties : Employers in relation to the management of
Mashreq Bank

And

Their Workman

1. Prakash Chalke (CGIT-1/38 of 2003)
2. Jitendra Singh (CGIT-1/41 of 2003)

APPEARANCES:

For the Management : Shri. M.M. Gujar, Adv.

For the workman : Mrs. P.S. Shetty, Adv.

State : Maharashtra

Mumbai, dated the 9th day of March, 2011

AWARD

1. These are the two references made by the Central Government in exercise of its powers conferred under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act 1947 (hereinafter referred to as the Act). The dispute referred to this Tribunal for adjudication is that whether the action of the management of Mashreq Bank, Mumbai in terminating the services of Prakash Chalke and Jitendra Singh w.e.f. 12-6-2002 is justified and if not justified then to what relief they are entitled to?

2. Since both the references contain almost common facts and common question of law, therefore, they are being disposed of by this common award.

3. As per the statements of claim Prakash Chalke joined as a Peon in the first party bank at its Mumbai branch on 1-2-1987 on a salary of Rs.865 p.m. whereas Jitendra Singh joined as a clerk in the first party bank at its Mumbai branch eight years back and both performed their duties to the best of their ability and to the satisfaction of their superiors with a clean and unblemished service record. They were not allowed to record their attendance on 13-6-2002. They were served with letters dt.13-6-2002 by the bank enclosing therewith notices dtd.12-6-2002 informing them that they had been retrenched from the service of the bank w.e.f. 12-6-2002. According to them termination of their services by way of retrenchment is illegal, unjustified and contrary to the mandatory provisions of the Act in as much as the seniority list was never displayed as required under the rules nor was the so called seniority list proper. They have stated that the first party bank failed to follow the principle of "last come first go" before retrenching them. It has also been alleged that the

amount paid to them as retrenchment compensation was not calculated on the basis of their total services and illegal deductions were made. They, therefore, prayed that the retrenchment order dtd.12-6-2002 be quashed and they be reinstated w.e.f. 12-6-2002 with full back wages, consequential benefits and continuity of service.

4. The bank has submitted written statements stating therein that in India the bank has two branches one at Delhi and another at Mumbai and the bank engages twelve employees in total at both the branches as on date. The management of the bank after considering all the factors prevailing announced a VRS scheme in the month of January 1999. A majority of the employees responded to the same. In all about twenty three employees opted for VRS and collected their dues in full and final settlement. The second parties did not apply under the VRS scheme and did not avail the benefits thereof. The bank was facing rough weather in the form of severe competition, narrowing interest margins, high operating costs and non-performing assets amongst others. Hence the bank was constrained to reconsider its business strategy to ensure the bank's survival. The bank displayed seniority list dtd. 22-4-2002 a copy of which was given to all the employees of the bank including the second parties and their union Bhartiya Kaamgar Sena. The union responded to the said seniority list vide letter bearing no. 716 dtd. 24-4-2002 raising frivolous and untenable objections. On 30-4-2002 the bank received individual letters from eight employees including the second parties raising vague allegations in respect of the said seniority list. The management replied by its letter dtd. 4-5-2002 to each of the eight employees including the second parties. However, all of them refused to accept the said letters. The bank then sent the letters by speed post AD on the last known addresses. The addressees refused to accept the postal packets containing the said letters. In the circumstances, the bank was constrained to forward a copy of the said letter under cover of its letter dtd. 24-5-2002 to the Bhartiya Kaamgar Sena a union representing the workmen employed in the bank. According to the written statements on 12-6-2002 at around 5.30pm the management attempted to serve notices of retrenchment, statements of accounts along with payment of money due by way of cash to four employees including the second parties after deduction of taxes at source. The second parties refused to accept the above. The bank then sent the notices along with all enclosures and payments by way of pay orders by post at the last known address of the second parties. The second parties received the communications and encashed the pay orders. Meanwhile, the local management of the bank received legal advice from the tax consultants of the bank in respect of the tax payable by the concerned employees and thereafter the bank re-computed the legal dues. The bank issued pay orders in respect of the excess taxes which were inadvertently deducted and forwarded the same by speed post AD to the second parties and the second parties encashed these pay orders also. According to the written

statements the bank has complied with the provisions of Section 25-F of the Act scrupulously and, therefore, the order of retrenchment is legal, justified and proper.

5. The second parties have filed rejoinders wherein they have denied certain allegations made in the written statements.

6. In reference No. 38 of 2003 the second party Prakash Chalke filed his affidavit and he was cross-examined by learned counsel for the first party-bank whereas the first party bank filed affidavits of Godrej Mistry and Nikhil Balkrishna Vaid who were cross-examined by learned counsel for the second party and a third witness Suresh Jadhav was also produced to prove that the second party is at present in the service of Arab Bangladesh Bank Ltd. In reference no. 41 of 2003 the second party Jitendra Singh filed his affidavit and he was cross-examined by learned counsel for the first party bank whereas the witness of the first party Godrej Mistry was cross-examined by learned counsel for the second party and one Mohammed Baj was also produced to prove that the second party Jitendra Singh has been appointed as Executive Assistant in the Bank of Bahrain and Kuwait B.S.C.

7. Heard learned counsels for the parties.

8. In the statements of claim the termination of the second parties has been challenged on the ground of non-compliance of the provisions of Section 25-F of the Act but learned counsel for the second parties has not at all argued that the retrenchment compensation given to the second parties is not in conformity with the provisions of Section 25-F of the Act and her only contention is that the seniority list was prepared with respect to the Bombay branch only whereas as per the appointment letters of the second party Prakash Chalke, Ex. W-1 he was transferable anywhere in India or outside and, therefore, a composite list of seniority should have been prepared for both the branches Mumbai as well as Delhi. She has further contended that in this case there is unity of management, unity of ownership and unity of accounts and, therefore, a seniority list of Mumbai branch only is illegal. She has argued that since a composite seniority list has not been prepared the principle of "last come first go" as contained in Section 25-G of the Act has not been followed and as such the retrenchment of the second parties is illegal and unjustified.

9. There is no pleading in the statements of claim that a composite list of seniority should have been prepared for Mumbai branch as well as Delhi branch of the bank and that a seniority list prepared for only the Mumbai branch of the Bank is illegal. The first party has thus been deprived of an opportunity to give a proper reply and an opportunity to adduce evidence if necessary. Learned counsel for the

second parties is, therefore, precluded from raising this contention at this belated stage. If transferability of the workmen and unity of ownership, management and accounts can be the basis for composite list then there should be a composite seniority list inclusive of all the branches of the bank in the world. I am of the opinion that there is no material on record to sustain the argument that the seniority list as prepared by the first party bank is bad in law as it is not a composite list of Mumbai branch as well as of Delhi branch of the bank. I am, therefore, not persuaded to agree with Ms. P. S. Shetty that the principle of "last come first go" has not been adhered to in this case.

10. Moreover, this is also to be noted that the second parties have received the compensation amount long back and presently they are in the services of the two different banks.

11. In view of the above discussion, I have come to the conclusion that the action of the management of the bank in terminating the services of the second parties by way of retrenchment cannot be said to be unjustified and there is no ground to hold otherwise.

12. Consequently, the reference is answered in affirmative and it is held that the action of the management in terminating the services of the second parties is not unjustified.

13. An award is made accordingly.

JUSTICE G. S. SARRAF, Presiding Officer
नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1140.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 27/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/148/2003-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1140.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers of relation to the management of Department of Post and their workmen, which was received by the Central Government on 1-4-2011.

[No. L-40012/148/2003-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

PRESENT:

Shri J. SRIVASTAVA,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 27/2004

Date of Passing Award-24th March 2011

BETWEEN:

The Management of the Senior Superintendent of Post, Berhampur, Dist. Ganjam, Orissa.

...1st. Party- Management

(And)

Their workman Shri Laxman Nayak,
At./Po. Narayanpur, Via-Gopalpur-on-sea,
Dist. Ganjam, Orissa.

...2nd Party- Workman.

APPEARANCES:

M/s. P.K. Padhi

... For the 1st party-
Management

Advocate.

...For the 2nd Party-
Workman.

AWARD

The Government of India in the Ministry of Labour has referred the present industrial dispute existing between the employers in relation to the Management of Department of Post and their workman in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their letter No. L-40012/148/2003-IR(DU) dated 19-4-2004 in respect of the matters specified in the schedule which seems as follows:—

“Whether the demand of the workman, Shri Laxman Nayak EDDA for reinstatement with full back wages is legal and justified? If yes, what relief he is entitled to?”

2. The 2nd Party-workman in pursuance of the letter of reference has filed his statement of claim and stated that he was appointed on the post of Extra Department Delivery Agent (EDDA) on 2-3-1998 after due selection in response to public notification made by SDI(P) Berhampur/(South) Sub-Division for the post of EDDA, Gopalpur SO-1. He continued in service for more than one year and drew his salary/wages regularly. But surprisingly he received an order of termination of his service with effect from 1-4-1999. His appointment was allegedly found to be illegal on account of contravention of administrative and executive instructions of the Department, though he fulfilled all the criteria laid down by the Postal Department for the

concerned post. Thus his termination amounts to retrenchment under section 2(oo) of the Industrial Disputes Act which has been made without compliance of the provisions of Section 25-F of the aforesaid Act rendering it illegal. Therefore the 2nd Party-workman is entitled to be reinstated in service with full back wages.

3. The 1st Party-Management has contended in his written statement that the present reference is not maintainable as it does not come under the purview of Section 2 sub-clause (g) (j)(k) and (ka) of the Industrial Disputes Act, 1947. The present proceedings are also not tenable as there is efficacious and alternative remedy available to the claimant in the eye of law. Certain complaints from the members of the public regarding irregular selection of the claimant were received. Therefore his selection was reviewed by the Senior Superintendent of Post Office, Berhampur (Ganjam Division), Berhampur on 22-3-1999 and was declared null and void. The direction of the Divisional head was implemented by the Sub-Divisional authority and accordingly the service of the claimant was terminated. The recruitment of the claimant was again reviewed by the Regional Authorities i.e. the Post Master General, Berhampur but Shri Madi Narasingha was appointed in his place. The Industrial Disputes Act is not applicable to any of the staff of the Postal Department. Only the Central Administrative Tribunal has jurisdiction to adjudicate upon the matters concerning recruitment to any service or post or service matters. The claimant had also moved and filed Original Application No. 23/1999 in the Central Administrative Tribunal, Cuttack and in pursuance of the order of the said Tribunal the matter was decided. The post of EDDA, Gopalpur was now filled up with one Shri R.C. Pradhan by the order of the Central Administrative Tribunal, Cuttack passed in O.A. No. 289/2000 terminating again one Shri Madi Narasigha. Hence the claim petition of the claimant be rejected.

4. The 2nd Party-Workman has also filed rejoinder to the written statement of the 1st Party-Management but he has stated no new facts and only reiterated the facts alleged in the statement of claim.

5. Following issues were settled on the pleadings of the parties.

ISSUES

1. Whether the reference is maintainable?
2. Whether the workman, Shri Laxman Nayak was retrenched from service with effect from 1-4-1999 and if so, whether the Management was justified in doing so?
3. Whether the workman is entitled to be reinstated with full back wages?
6. In support of his claim the 2nd Party-Workman, Shri Laxman. Nayak has examined himself as W.W.-I and proved four documents marked as Ext.-I to Ext.-4.

7. The 1st Party-Management has examined Shri Ramakanta Mishra as M.W.-I and proved documents marked as Ext.-A to Ext.-K.

FINDINGS
ISSUE NO. I

8. The 1st Party-Management has assailed the maintainability of the reference in this Tribunal on two grounds: firstly, that the various aspects of the matter do not come under the purview of Section 2(g)(j)(k)(ka) of the Industrial Disputes Act, 1947 and secondly, recruitment to any service or post or service matters in respect of the 1st Party-Management can be challenged only before the Central Administrative Tribunal as this Tribunal has no jurisdiction to adjudicate upon these matters.

9. Under sub-clause (g)(j)(k) and (ka) of Section 2 of the aforesaid Act definition of "employer", "industry", "industrial dispute" and "industrial establishment or undertaking" have been given. It has not been shown by the 1st Party-Management as to how these definitions do not cover the Management of Department of Post. Unless shown otherwise it will be presumed that the Government of India in the Ministry of Labour has referred the present industrial dispute existing between the 1st Party-Management and its workman after considering the applicability of the Industrial Disputes Act, 1947 in their case. Secondly, Section 28 of the Administrative Tribunals Act, 1985 does not preclude an Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 to exercise any jurisdiction, powers or authority in relation to recruitment or matters concerning recruitment to any service or post or service matter concerning members of any service or persons appointed to any service or post. Therefore it is held that the reference is very much maintainable in this Tribunal. This issue is accordingly decided in the affirmative and against the 1st Party-Management.

ISSUE NO. 2

10. It is an undisputed fact that the 2nd Party-Workman Shri Laxman Nayak was terminated from service with effect from 1-4-1999 from the post of EDDA after serving for more than one year on the ground of contravention of administrative/executive instructions. It has not been clarified on behalf of the 1st Party-Management as to why he was appointed in contravention of administrative/executive instructions and later terminated from service without his fault. The 1st Party-Management may justify its own action but it cannot be justified when considered at the angle of the 2nd Party-Workman. It has also not been clarified as to what were those administrative/executive instructions which had been infringed or contravened in making appointment of the 2nd Party-Workman on the post of EDDA. Since the 2nd Party-Workman has rendered continuous service for more than one year on the above post, his termination is illegal and amounts to retrenchment as defined under clause 2(oo)

of Section 2 of the Industrial Disputes Act, 1947. Since no notice of one month in writing was given prior to termination to the 2nd Party-Workman, the action of the 1st Party-Management cannot be held proper causing contravention of provisions of Section 25-F of the Industrial Disputes Act. The 1st Party-Management should have given one month's prior notice in writing to the 2nd Party-Workman before termination and it should have also paid compensation to him as required under law. To that effect the action of the 1st Party-Management in terminating the services of the 2nd Party-Workman cannot be justified. The workman has also approached Central Administrative Tribunal, Cuttack in this regard and after complying the orders of the Central Administrative Tribunal the 1st Party-Management has decided his matter and stucked to its decision after affording an opportunity of hearing to the 2nd Party-Workman, but in view of the provisions of Section 25-F of the Industrial Disputes Act the action of the 1st Party-Management in terminating the services of the 2nd Party-workman cannot be justified and the 1st Party-Management has to comply the provisions of law. Hence this issue is decided against the 1st Party-Management.

ISSUE NO. 3

11. From the photostat copy of the appointment letter of the 2nd Party-Workman marked as Ext.-2 it appears that the appointment of the 2nd Party-Workman to the post of EDDA was provisional till the regular appointment is not made. Although it is not clear as to whether any regular appointment to the post of EDDA, SO-1, Gopalpur has been made by the 1st Party-Management till date or not, but it is clear that several litigations had taken place for this post before the Central Administrative Tribunal, Cuttack and Hon'ble High Court of Orissa. The 2nd Party-Workman after having a personal hearing in pursuance of the order of the Central Administrative Tribunal, Cuttack and after being refused employment has not approached the Central Administrative Tribunal again but filed a reference of dispute to the Asst. Labour Commissioner (Central) and on failure of conciliation proceedings the reference was made to this Tribunal. In the given set of circumstances the 2nd Party-Workman does not appear to have any right to reinstatement on the post of EDD-I at Gopalpur SO. Therefore he is not entitled for reinstatement with full back wages but certainly he shall get benefit of provisions of Section 25- F of the Industrial Disputes Act. Accordingly he is entitled to one month's wages in lieu of notice and compensation equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months. In the case of the 2nd Party-Workman as he has rendered continuous service of one year only, he shall be entitled to 15 days average pay for completed one year of continuous service. This issue is decided accordingly.

12. The 1st Party-Management is directed to pay one month's wages in lieu of notice and 15 days average

pay for completed one year of continuous service to the 2nd Party-Workman within two months from the date of publication of the Award.

13. The reference is answered accordingly.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली 1 अप्रैल, 2011

का.आ. 1141.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत सरकार पर्यटक कार्यालय के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय के प्रचाचार (संदर्भ संख्या सीजीआईटी/एलसी/आर/308/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-42012/67/1997-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1141.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/308/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers of relation to the management of Bharat Sarkar Paryatak Karyalaya and their workman, which was received by the Central Government on 1-4-2011.

[No. L-42012/67/1997-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/308/97

Presiding Officer: SHRI MOHD. SHAKIR IHASAN

Shri Sanjay Kumar Raikwar,
Purana Bus Stand, Surai Maidan,
Makbara ke peeche, Khajuraho,
Distt. Chhattarpur

... Workman/Union

Versus

Kshetriya Nideshak,
Bharat Sarkar,
Paryatak Karyalaya, 123,
Maharshi Curve Marg,
Mumbai, Maharashtra

... Management

AWARD

Passed on this 18th day of March 2011

1. The Government of India, Ministry of Labour vide its Notification No. L-42012/67/97-IR(DU) dated 11-11-97

has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Bharat Sarkar, Paryatak Karyalaya, Mumbai Region in terminating the services of Shri Sanjay Kumar Raikwar, Chowkidar, Paryatak Karyalaya, Khajuraho w.e.f. 1-12-94 is legal and justified? If not, to what relief is the workman entitled to and from what date?”

2. The case of the workman, in short, is that the workman was appointed on 3-1-94 as chowkidar at Paryatak Karyalaya, Khajuraho for a period of six months vide letter No. Adm/P-3(SKR)93 dated 30-12-93. He was terminated on 18-7-94 without any notice but he was discharging duties till 4-9-94 on oral instruction by the management but no payment was made of the said period. Again on 26-8-94, letter No. Adm./P-3 (SKR)94 was issued by the management whereby he was reappointed on the same post and at same place w.e.f. 1-9-94 for a period of 89 days but willfully and knowingly, the Manager, Paryatak Karyalaya, Khajuraho kept the said letter and issued appointment letter vide K/Admn/p/15/94 dated 5-9-94. The services of the workman was resumed w.e.f. 5-9-94 though the Manager had no authority to issue such letter. His service was surprisingly terminated on 1-12-94. On these grounds, it is submitted that the reference be answered in favour of the workman.

3. The management also appeared and filed Written Statement to contest the reference. The case of the management, interalia, is that admittedly the workman was appointed and worked purely on adhoc basis and the same was liable to be terminated at any time without any notice or without assigning any reason. It is denied that on oral instructions, he had worked for any period as has been alleged. It is stated that the letter dated 26-8-94 was issued by the Regional Director of Tourism which was to be communicated by the Manager. As such the order was issued on 5-9-94 in accordance with the establishment order dated 26-8-94. It is stated that the services of the workman were terminated w.e.f. 30-11-94 in terms of the appointment order. On these grounds, it is submitted that the workman is not entitled to any relief.

4. On the pleadings of both the parties, the following issues are framed for adjudication—

I. Whether the action of the management in terminating the services of the workman is justified and legal?

II. To what relief the workman is entitled?

5. Issue No. I

On the basis of the pleadings and documentary evidence, the following facts appear to be admitted by the parties.

a. The workman Shri Sanjay Kumar Raikwar was appointed as a Chaukidar, Paryatak Karyalaya, Khajuraho for a period of six months. Thereafter again he was appointed on the same post for a period of 89 days from 5-9-94.

- b. He was terminated from the service w.e.f. 1-12-1994 after completion of the said period.
- c. He was not given any termination notice nor any compensation was paid in lieu of his service.
- d. Written appointment letters were issued of the said two terms of appointment and termination order was also passed.

6. The learned counsel for the management argued that it was a contract of employment and after completion of the period the term of contract was terminated and his contract was not further renewed. He was not retrenched employee under the provisions of Section 2(00)(bb) of the Industrial Dispute Act, 1947 (in short the Act, 1947) and therefore he is not entitled to any relief. Section 2(00)(bb) of the Act, 1947 runs as follows:—

“Section 2(00)

Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein : or”

Thus it is clear that on the basis of admission in the pleadings, he is not to be termed as retrenched employee and therefore the provision of the Act, 1947 is not applicable and his case is hit under Section 2(00) (bb) of the Act, 1947.

7. However now let us examine the evidence adduced in the case. The workman has filed his evidence by affidavit but he did not appear for cross examination. As such his evidence is not to be looked into and is not helpful to the workman.

8. On the other hand, the management has filed oral and documentary evidence. Exhibit M/1 is the appointment order dated 30-12-93 whereby the workman was appointed on a purely temporary basis for a period of six months. This document appears to be admitted by the workman in his pleading. This document shows that it was a contract of appointment for a fixed period. Exhibit M/2 the termination letter dated 27-7-94 whereby the workman was terminated w.e.f. 18-7-94 on completion of six months and the period of employment was not renewed. Exhibit M/3 is the order of re-engagement on employment w.e.f. 1-9-94 for a period of 89 days. This also shows that a fresh contract of employment order was passed whereby the workman joined on 5-9-94. Exhibit M/4 is the termination letter dated 29-11-94 whereby the term of employment was terminated on its completion of the period w.e.f. 30-11-94. Thus the documentary evidence clearly establishes that it was a contract of employment and the contract was not renewed accordingly. It is evident that the provision of Section

2(00) (bb) of the Act, 1947 is applicable. The management has filed the evidence of Shri Shobha Kumar, Asstt. Director. He is also not cross-examined in the case. However the documentary evidence shows that the action of the management is legal and justified in terminating the service of the workman. This issue is decided in favour of the management and against the workman.

9. Issue No. II

On the basis of the discussion made above, I find that the workman is not entitled to any relief. Accordingly the reference is answered.

10. In the result, the award is passed without any order to costs.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1142.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. एस. एन. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, चंडीगढ़ के पंचाट (संदर्भ संख्या 1319/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/98/2006-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1142.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1319/2007) of the Central Government Industrial Tribunal-cum-Labour Court No.-I, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BSNL and their workmen, which was received by the Central Government on 1-4-2011.

[No. L-40012/98/2006-IR(DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH.**

Case I. D No. 1319/2007

Sh. Sudershan Singh S/o Sh. Chatar Singh, Vill.-Badala, PO-Bahadpur, Teh-Indora, Kangra.Applicant

Versus

The District Telecom Engineer, Bharat Sanchar Nigam Ltd.
Nurpur, Kangra.

...Respondent

APPEARANCES

For the Workman : Workman in person
For the Management : Shri. Jitender Kumar

AWARD

Passed on :—10-3-2011

Government of India, Ministry of Labour and Employment vide Notification No. L-40012/98/2006 - IR(DU) dated 10-4-2007 referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of District Telecom Engineer, BSNL, Nurpur, in terminating the services of their workman Sh. Sudershan Singh w.e.f. 1-4-2005 is legal and justified? If not, to what relief the workman is entitled to?”

The case of the workman in nutshell is that he was appointed as sweeper-cum-office attendant in June, 1998, and had worked with the management continuously till 31-3-2005. No doubt in the final record of the Telecommunication Office he was shown as a part time sweeper but he was doing whole day even on holidays. He had completed 240 days of work in the preceding year from the date of his termination. His services were terminated on 31-3-2005 without notice or without payment of one month wages in lieu of notice and without payment of lawful terminal dues. Fresh hands were appointed after his termination without affording him the opportunity to work.

On the basis of above contentions the workman has prayed for an order setting aside his termination and for consequential order regarding his reinstatement along with other benefits.

The management in written statement has stated that he was not appointed in June, 1998, but was engaged as a part time sweeper-cum-office attendant in July, 1999. It is also admitted that he worked up to 31-3-2005. It is not disputed that workman has completed 240 days of work in the preceding year from the date of his termination. The only contention of the management is that as per the policy of Telecommunication Department, all the part time casual labours who were working as on 1-8-1998 and 25-8-2000 were converted to the full time casual labours against vacant post. As the workman was engaged in July, 1999 he was not working on 1-8-1998, his case was not considered for conversion to the full time casual labors. Under such circumstances the termination of the workman cannot be against the provisions of Section 25 H of the Industrial Disputes Act.

Both of the parties were afforded the opportunity for adducing evidence. Evidence of workman Shri Sudershan

Singh was recorded. On behalf of the management, statement of She Jitendra Kumar was recorded. The workman has filed a list of persons who were converted to full time casual labour from part time casual labour and has stated that few of the persons in the list are junior to him. The management has also filed the statement of working days.

I have heard the parties in person at length. There is no dispute on the issue that workman has worked 240 days of work in the preceding year from the date of his termination. The workman was engaged in the year 1999 and he has worked up to February 2005. No notice or retrenchment compensation or one month wages in lieu of notice were paid prior to his termination. Hence, the termination of the workman was and is held to be illegal.

The management has tried to justify its action on the ground of the circular letter of the department. This circular letter speaks about the conversion of part time casual labour to full time casual labour for those who were working with the department on 1-8-1998 and 25-8-2000. It is true that the case of the workman was not covered by this circular letter but it does not mean that this circular letter conferred any power on the management to act against the provisions of the Industrial Disputes Act. This circular letter confers a power on the management for the benefit of the part time workers. That benefit was the conversion of part time worker to the full time casual worker. This circular letter never conferred any power on the management to act against the interest of part time casual labour. In the light of this circular letter the management has arbitrarily terminated the services of the workman.

It has been held by this Tribunal that workman has completed 240 days of work in the preceding year from the date of his termination. His termination was illegal. In the case of illegal termination there are two possible remedies available. The first remedy is reinstatement of workman to the same position he was working prior to his termination and another is a reasonable compensation. It is a settled law of service jurisprudence that priority should be given for protection of right to work. Meaning thereby, priority has to be given for reinstatement of workman into services. In exceptional circumstances this Tribunal can also award a reasonable compensation. In my view where the work is available, reinstatement is the only remedy. The nature of work which was entrusted to and discharged by the workman was and is of perennial nature. Accordingly, the management is directed to re-instate the workman on the same position he was working prior to his termination within one month from the date of publication of award. Let Central Government be approach for publication of award and thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1143.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी एस एन एल के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 55/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/119/2005-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1143.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BSNL and their workman, which was received by the Central Government on 1-4-2011.

[No. L-40012/119/2005-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT NO. 1,
CHANDIGARH

CASE I.D. NO. 55/2006

Sh. Baldev Singh,
S/o Sh. Santokh Singh,
R/o Nawan Mohalla, Nanakpura
Ward No. 15, Nangal Road, Ropar ...Applicant
Versus

The General Manager,
Telecom District,
Bharat Sanchar Nigam Ltd., ...Respondent
Ropar-140001

APPEARANCES:

For the Workman : Sh. Barjesh Mittal
For the Management : Ms. Deepali Puri

AWARD

Passed on 21-3-2011

Government of India, Ministry of Labour and Employment vide Notification No. L-40012/119/2005-IR(DU) dated 15-9-2006 referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of General Manager, Telecom, BSNL, Ropar in terminating the services of Sh. Baldev Singh, Lorry Driver, w.e.f. 28-8-2001 is legal and justified? If not, to what relief the workman is entitled to?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. The case of the workman in nutshell is that he was engaged as casual lorry driver/casual labour w.e.f. 12-10-1999 by the office of General Manager, Telecom, District Ropar, and was allowed to continue up to December 2000. He was driving the departmental vehicle tempo no. PB 12-C-1478 under the control of the Sub-Divisional Officer, Telegraph, Ropar. He had worked more than 240 days in the preceding year from the date of his termination. His services were terminated orally without notice or without payment of one month wages in lieu of notice and without payment of lawful compensation. His termination from services was void and illegal. On the basis of above facts the workman has prayed for an order of reinstatement along with consequential benefits.

The management appeared and opposed the claim of workman by filing written statement. The very much master-servant relationship between the workman and the management has been challenged by the management on the ground that services of workman were provided with on outsourcing through Sahota Transport Company, Salora vide order dated 4-10-1999. The period of work is not disputed. It is further contended that workman has not completed 240 days of work in the preceding year from the date of his termination, hence, there was no requirement for giving any notice before termination. Both of the parties were afforded opportunity for adducing evidence. Evidence of workman was recorded. Apart from the oral evidence the workman has filed a typed copy of authority letter without signature or seal of an official or department which is W4. Even this letter does not bear the signature of workman. Apparently, these are typed documents without any signature and cannot be relied upon. The workman has also filed complete photocopy of logbook. The original logbook has also been provided. The oral evidence of management was also recorded. I have heard the, parties at length.

The first issue is whether the workman was directly engaged by the management or his services were provided to the management on outsourcing through Sahota Transport Company. The management has provided with a letter written by Sahota Transport Company to S.D.O. telephone department Roopnagar, regarding availability of driver, Sh. Baldev Singh on terms and conditions mentioned in the letter. From the entire materials on record, it is evidently clear that Shri Baldev Singh was directly under the control of the management and as per the contents of all those letters he was paid the wages directly by the management and there was no contractor in between the management and the workman. Sahota Transport Company has helped the management in searching and providing a driver, but the driver was engaged directly by the management. Thus, there existed a master and servant relationship between the management and the workman.

The workman has claimed to work with the department almost a year from 12-10-1999. He contended to have completed 240 days of work in the preceding year from the date of his termination. In his evidence he has disclosed the date of termination as 25th December, 2000. But the logbook he has filed proves that he has worked up to 5-1-2001. It makes no difference because period of work has not been challenged by the management. The only contention of the management is that the workman has not completed 240 days of work in the preceding year from the date of his termination. The management has given its own calculation and has contended that workman has only worked for 240 days. I have calculated the working days from the logbook which is admitted to both of the parties. As per the logbook, the workman has not worked for entire period in any month. In January, 2000 he has only worked for 19 days which is an admitted preposition, likewise, April 2000, he had only worked 18 days and December, 2000, he has worked only 23 days. In June, July, September and October he has worked much less than 20 days. It supports the contention of the management that workman was not regularly working and he was driving the vehicle as and when required on need basis. No doubt the workman differ in some working days in the month of February, March, May, July, August, September, October 2000. But, if working days are calculated from the logbook, it is clear that workman had not worked for 240 days in the preceding year from the date of his termination. Actually, he was not entitled for the protection of provisions of Industrial Disputes Act. It is not the case of the workman that at his place some other person was engaged. His services were terminated due to the policy of department imposing a ban on engagement of casual labour. Accordingly, there is no force in the claim of the workman and the claim is dismissed. Workman is not entitled for any relief. Let Central Government be approach for publication of award and thereafter, file be consigned to courtroom.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1144.——औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेवल डाक्यार्ड के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 26/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-14012/31/2003-आई आर (डी यू)]

जोहन तोफनो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1144.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 26/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Naval Dockyard and their workman, which was received by the Central Government on 1-4-2011.

[No. L-14012/31/2003-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri VED PRAKASH GAUR,
Presiding Officer

Dated the 21st day of February, 2011

INDUSTRIAL DISPUTE No. 26/2004

Between :

Ms. Beta Nagamani,
D.No.61-5-65, Venkannapalem,
Malkapuram, Visakhapatnam.Petitioner

AND

The Admiral Superintendent,
Naval Dockyard,
P.O. : Naval Base,
Visakhapatnam.-530011.Respondent

APPEARANCES :

For the Petitioner : M/s. S. Rama Rao & D.J.
Murthy, Advocates

For the Respondent : Authorised Representative

AWARD

This reference has been registered in this Tribunal on the basis of the reference received from the Government of India, Ministry of Labour and Employment vide its order No. L-14012/31/2003-IR(DU) dated 19-4-2004 for adjudication between the management of Naval Dockyard and their workman. The term of reference is as under :

SCHEDULE

“Whether the action of the management of Naval Dockyard, Visakhapatnam in terminating the services of Ms. B. Nagamani, Ex-Casual Labour w.e.f. 1-3-2002 after she rendered services from 1991 to 28-2-2001 is legal and/or justified? If not, to what relief the concerned workman is entitled?”

The reference is numbered in this Tribunal as I. D. No. 26/2004 and notices were issued to the parties to file their claim and counter statements.

2. The Petitioner workman filed her claim statement alleging therein that she is a handicapped unmarried woman having deaf and dumb brothers and sisters. Looking into the state of affairs of the Petitioner Director for Welfare of Handicapped made a representation as back as in the year 1989 for employment to the General Manager, Naval Dock, Visakhapatnam by virtue of proceedings in Lr. No. DWLG/10/2526/89 dated 16-2-1989 recommended to recruit the applicant to any post. Considering the said recommendation, the Respondent by proceeding No.PIR/0703/Gen/AR, dated 21-11-1990 issued an appointment order to the post of sweeper on daily wage basis w.e.f. 3-5-1991. The applicant joined in the service and continued on daily wage for more than five years but Respondent failed to regularize her services even after several representations dated 16-2-1993 and 7-3-1995.

3. She has further stated that although she was physically handicapped but she continued to discharge her duties to the satisfaction of her superiors by virtue of proceeding No. PEM/0301 dated 2-8-1994 Principal Medical Officer has forwarded a note to Respondent to look into the case of the applicant in a sympathetic manner. The Petitioner also made representation which was forwarded to Respondent for regularization of services of the Petitioner but, no action was taken by the Respondent as such, the Petitioner preferred O.A. No.1315 of 1995 before Hon'ble Central Administrative Tribunal, Hyderabad. The Respondent was directed to finalise the selection for filling the vacancies of unskilled posts against the physically handicapped quota keeping in mind the services rendered by the applicant between 1991 to 1997. The Respondent did not implement the order and passed an order dated 26-11-1997 which was again challenged by the workman by O.A. No.1761/1997. Order passed by the Hon'ble Central Administrative Tribunal setting aside the order dated 26-11-1997 and reiterated to consider the case of Petitioner in the light of order dated 29-8-1997. The said order was also not implemented by the Respondent, however, and by the order dated 8-8-1998, Respondent rejected the claim of the applicant, against which Petitioner preferred contempt petition under C.P. No. 104/1998, the same was disposed off with the direction that if applicant is aggrieved on the reply her remedy lies to be challenged in appropriate forum. Hence, this petition.

4. The Petitioner approached Assistant Labour Commissioner(C), he could not resolve the dispute, referred the matter to the Central Government who has made this reference to this tribunal. Petitioner has contended that her case was recommended by the Director of Welfare of Handicapped, considering the pitiable condition of the Petitioner she was appointed by Respondent on daily wages. She put in 5 years of service, the management advised her to get her name sponsored by the local employment exchange but, she was not selected for appointment by selection board. Management has malafide intention in not selecting the Petitioner even though her

name was sponsored by employment exchange, as such, the provisions of Industrial Disputes Act, 1947 has been violated. Her dismissal order be quashed, she be reinstated in service w.e.f. 1-3-2002 with back wages.

5. Counter statement has been filed by the management stating therein that Ms. B. Nagamani a physically handicapped was referred by Director of Welfare of Handicapped, Hyderabad for appointment in suitable post on humanitarian grounds vide letter, No.DWLG/10/2526/89 dated 16-2-1989, accordingly she was engaged as daily wage labour since 1991, as and when required basis subject to availability of the funds. Her contention that she has been appointed as sweeper vide letter No. PIR/0703/GEN/AR dated 21-11-1990 is not true. Her employment was purely on casual basis as such, she has no right to ask for job as she has not fulfilled the conditions laid down by Government of India; DOPT letters 1991 and 1993.

6. As per Government of India, DOPT letter Nos. MF.4(3)/89/D(Civ.II) dated 31-1-1991 and No.551016/2/90-Estt.(C) dated 10-9-1993 a casual labour has to render service of 240 days in a calendar year either for regularization of services or for grant of temporary status. Since the Petitioner has not fulfilled the requisite condition her services were neither regularized nor temporary status was conferred on her. Since her services were not regularized she filed O.A. No. 1315/95 in Hon'ble Central Administrative Tribunal, Hyderabad for regularization under PHC quota. While filing reply by ASD on 4-6-1997 it was brought out that Petitioner was given daily wage labour employment for 18-20 days during 1991 to March, 1997 on need basis. It was further submitted before Hon'ble Central Administrative Tribunal that a requisition has been placed at Employment Exchange, Visakhapatnam to fill up the vacancies of USLs reserved for physically handicapped and Employment Exchange has sponsored the name of Ms. B. Nagamani along with the candidates for selections. The Hon'ble Central Administrative Tribunal delivered its judgement vide order dated 29-8-1997 directing the Respondent to consider the name of Petitioner along with other candidates keeping in view the services rendered by her between 1991 to March, 1997. The selection of the candidate for the post of USL was completed but Ms. B. Nagamani was not selected when compared with other PHC candidates participated in interview. Aggrieved of non-selection, Ms. B. Nagamani again filed O.A. No.1767/97 before Hon'ble Central Administrative Tribunal, Hyderabad wherein direction was passed and in view of the direction passed in O.A. 1767/97, the Dockyard Administration had convened a special board to consider the candidature of Ms. B. Nagamani, the matter was examined by the Board, the Board has given weightage of one mark for each year of service rendered by her. Despite the additional marks given by the Board, Ms. B. Nagamani has not been selected for appointment, hence, she could not be appointed. The individual again filed O.A. No. 219/2000 in the Hon'ble Central Administrative Tribunal, the Hon'ble Central

Administrative Tribunal directed to appoint the Petitioner as daily wager as and when need arises. But, she was not appointed as daily wage labour since December, 2002 in view of the Admiral Superintendent, Naval Dockyard, Visakhapatnam Standing Order 1999/2002 dated 21-12-2002, (i) NOKs families of deceased employees of Dockyard, (ii) Wards of serving group 'C & 'D' Employees who are due for retirement within 5 years, were to be considered for appointment. The matter was informed to the District Collector vide letter No. PES/8401/OA 219/99 dated March, 2003. Since Petitioner Ms. B. Nagamani could not be selected for post of USL her services could not be regularized, she has not rendered 240 days continuously which is prime eligibility criteria as per the Government orders. Hence, this Petition deserves to be dismissed. Petitioner is not entitled for any relief.

7. Both the parties were given opportunity to adduce their evidence. Petitioner workman has filed her own affidavit examination in chief and has filed xerox copies of 10 documents, viz., letter dated 16-2-1989 addressed by Director of Welfare for Handicapped to the Respondent Ex. W1, medical certificate dated 12-4-1999 proving that she is orthopaedically handicapped issued by Chairman, Medical Board, Visakhapatnam Ex. W2, the letter dated 21-11-1990 addressed by the management to the Petitioner Ex. W3, letter of approval dated 2-5-1991 Ex. W4, letter dated 20-5-1997 Ex. W5, letter by Respondent to the Petitioner dated 26-11-1997 Ex. W6, order in OA No. 1315/1995 dated 29-8-1997 Ex. W7, Order in O.A. No. 1761/1997 dated 25-3-1998 Ex. W8, representation of Petitioner to Assistant Labour Commissioner (C), Visakhapatnam dated 7-2-2003 Ex. W9, minutes of conciliation proceedings held on 25-3-2003 Ex. W10. She has appeared for cross-examination. She presented her for the cross-examination and has been cross-examined.

8. The Respondent has filed affidavit of Mr. S.S.R. Rao, but has not presented him for cross-examination. However, Respondent has also filed documents in form of Ex.M 1 to M9.

9. I have heard counsel for both the parties and have gone through the record and arguments of the parties.

10. This tribunal has to consider,

"(I) Whether the action of the management of Naval Dockyard in terminated the services of Ms. B. Nagamani w.e.f. 1-3-2002 is legal and justified or not?

(II) If she is entitled for any relief, if so, to what relief if any?"

11. Point No. (I) : In this connection this tribunal has to look into the claim statement of the workman wherein in para 2 of her petition she has stated that she joined the services of the management w.e.f. 3-5-1991. She moved two representations dated 16-2-1993 and 7-3-1995 for regularization of her services but, nothing was done. Then

she filed OA No. 1315/1995 before Hon'ble Central Administrative Tribunal, Hyderabad as alleged in para 3 of the claim statement, said OA was disposed off by the order dated 29-8-1997 directing the Respondent to finalise the selection which has been initiated for filling up the vacancy of unskilled post against physically handicapped quota expeditiously. This prove that the Petitioner is out of service as back as from the year 1995, it also transpires from the claim statement that the management started selection proceedings and Petitioner workman was one of those candidates who applied for the selection to the post of physically handicapped persons. From the claim statement it is also transpires that the Petitioner appeared for the selection but she was not selected by the Selection Board, she filed another OA No. 1761 of 1997 wherein it was further directed to consider the case of the Petitioner taking into account her past services. The Selection Board gave certain additional marks to the Petitioner for the past service rendered by her but, finally she was not selected by the Selection Board even after consideration of her past services. Thus, it is clear from own claim petition of the workman she was not selected for the post though she appeared before the Selection Board but the Selection Board did not find her fit in comparison to the other physically handicapped persons and she was not selected. The Petitioner has written in para 7 of her claim statement that she was terminated w.e.f. 1-3-2002. This contention of the Petitioner has been challenged by the Respondent, they have alleged that she was appointed on the basis of need when the work was available with the Respondent management. She was never engaged as daily wage labour in December, 2002 nor she ever worked upto March, 2002. It has been alleged by the Respondent that the appointment of the Petitioner was purely on casual basis and she has no right to ask for a regular job. She was given the employment for 18 to 20 days during 1991 to March, 1997 on the need basis. This contention of the Respondent is supported with the appointment order dated 2-5-1991 Ex. W4 wherein Administrative Officer has directed to employ Ms. B. Nagamani as safaiwali w.e.f. 3-5-1991 on payment of Rs. 20.50 per day with a restriction to work for 20 days in a month. There is no regular appointment letter or regular appointment of the Petitioner because the Petitioner herself has admitted through her claim statement that she appeared before the Selection Board for her selection to the vacant post reserved for physically handicapped persons, however, Selection Board did not appreciate her candidature or selected her for the post reserved for physically handicapped persons, in that case, the Petitioner has worked only as daily wage Safaiwali that too for 20 days in a month. How long the Petitioner worked with the Respondent management has not been proved by the Petitioner workman. In the year 1997 she filed OA before the Hon'ble Central Administrative Tribunal that she has not been selected by the Selection Board and Selection Board be directed to consider her case. The Hon'ble Central Administrative Tribunal through its order dated 29-8-1997,

annexure-4 of the counter statement has directed the Respondent to finalize the selection process for filing up the vacancy of the unskilled post against physically handicapped quota. It prove that the Petitioner was not regularly selected and appointed person. When regular vacancy existed the Respondent management started selection process. Petitioner workman applied for the post, but, she was not selected by the Selection Board. Thus, the Petitioner can not say that her services were terminated by the Respondent management, the Respondent management has given ample opportunity for the Petitioner to appear before the Selection Board which is known procedure for public appointment. The Petitioner was not selected by the Selection Board as such, this tribunal or any other court can not direct any Selection Board to select a particular candidate in a particular manner. It is the sole discretion of the selection committee to select a candidate out of similarly situated persons appearing for the selection process before Selection Board. In her own statement the Petitioner has stated that she knows the government rules that those casual labours who rendered service for 240 days in any calendar year is eligible for regularization of service or for grant of temporary status, it prove that the Petitioner workman was aware of the government orders that only those labourers could be regularized in the service who have rendered 240 days regular service in a calendar year or for grant of temporary status. However, she has not been able to prove that she worked for 240 days or more in a calendar year before the termination of her service. She herself has admitted that she worked for 18 days in a month. She has admitted that she filed a OA before Hon'ble Central Administrative Tribunal, before the order of the Hon'ble Central Administrative Tribunal, the physically handicapped persons were selected for appointment. She was also called for the interview or selection but she do not know why she was not selected. In her cross-examination she has stated that she was disengaged in August, 2002 however, in her claim statement she has stated that she was disengaged or terminated from the service on 1-3-2002, thus, two contradictory statements made by one and same person goes to show that the Petitioner was neither disengaged in the month of August, 2002 or in the month of March, 2002. Though she has challenged the contention of the management that she has not worked for 240 days but no document has been filed by the Petitioner to prove that she worked for 240 days nor she has been able to prove that she has been terminated from the service in the year 2002. The subject matter of the reference is that the Petitioner was disengaged or terminated in the year 2002. Answer to the said question on the basis of the evidence adduced by the workman goes to show or prove that Petitioner was disengaged from the service as back as in the year 1997, as such, the reference made by the Government of India does not satisfy the answer or conclusion drawn by this tribunal. This tribunal is of the opinion that the Petitioner was engaged as casual labour in the year 1991 but her services were discontinued long

back in the year 1997 itself, though she appeared before the Selection Board for filling up the post of physically handicapped quota, she was not selected, as such, this tribunal is of the opinion that the Petitioner was not terminated in the year 2002 as alleged by her. She was disengaged from the work in the year 1997, she was not selected by the Selection Board in the year 2002 and she was not appointed for the post reserved for physically handicapped persons. She has not been able to prove that she has put in 240 days continuous service in a calendar year before her disengagement as such, she is not entitled for the benefit under Sec. 25F of the Industrial Disputes Act, 1947. This tribunal is of the opinion that Petitioner was disengaged before 2002 and she was not terminated either on 1-3-2002 or this tribunal has further opined that she has not worked upto 20-8-2002, the post for which the Petitioner is contesting this petition is a public post for which there is procedure or selection of the candidates, the Petitioner appeared for selection, but was not selected by the Selection Board, as such, the action of the management is neither illegal nor unjustified. This tribunal is of the opinion that the Petitioner was neither terminated on 1-3-2002 nor the action of the management is illegal or unjustified. Point No.1 is decided accordingly.

12. Point No. (II) :

The Petitioner has filed this petition for recruitment to public post for which there is rules for recruitment. The Petitioner applied for the post appeared before Selection Board but was not selected, as such, this tribunal can not direct any Selection Board to select the Petitioner or appoint this Petitioner. The petition is devoid of any merit and Petitioner is not entitled for any relief. Point No. (II) is decided accordingly.

13. From the above discussion, this tribunal is of the definite opinion that Petition deserves to be dismissed, hence, it is dismissed. Reference is ordered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 21st day of February, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined
for the Petitioner

WW1 : Ms. Betha Nagamanni

Witnesses examined
for the Respondent

MW1 : Sri S. S. R. Rao

Documents marked for the Petitioner

Ex. W1 : Copy of Ir. No. DWH/PO/2526/889 dt. 16-2-89
to the Respondent.

Ex. W2 : Copy of medical certificate in r/o an orthopaedically handicapped candidate of Petitioner
dt. 12-4-99.

Ex. W3 : Copy of Lr. No. PIR/0703/GEN/AR dt. 21-11-1990 to WW1 by Respondent.

Ex. W4 : Copy of Lr. of approval for employment as Safaiwali on daily wage vide No. PIR/0902 dt. 12-5-91.

Ex. W5 : Copy of interview letter to WW1 No. PIR/0137/ ND(V)/PHC dt. 20-5-97.

Ex. W6 : Copy of Lr No. PES/8401/OA 1315/95 dt. 26-11-97 by Respondent to WW1 reg. her request for appointment as USL.

Ex. W7 : Copy of order in OA No. 1315/1995 dt. 29-8-1997.

Ex. W8 : Copy of order in OA No. 1761 of 1997 dt. 25-3-1998.

Ex. W9 : Copy of representation of WW1 to Respondent dated 7-2-2003.

Ex. W10 : Copy of minutes of conciliation proceedings dt. 25-3-2003.

Documents marked for the Respondent

Ex. M1 : Copy of Lr. No. DWH/PO/2526/89 dt. 16-2-89 to the Respondent by DWH office.

Ex. M2 : Copy of Lr. No. MF. 4(3)/89/D(Civ. II) dt. 31-1-1991 reg. terms and conditions of services of casual industrial and non-industrial employees.

Ex. M3 : Copy of No. 51016/2/90-Estt(C) dt. 10-9-1993 reg. grant of temporary status and regularization of casual workers.

Ex. M4 : Copy of order in OA No. 1315/1995 dt. 29-8-1997.

Ex. M5 : Copy of order in OA No. 1761 of 1997 dt. 25-3-1998.

Ex. M6 : Copy of order in OA No. 219/99 dt. 14-2-2000.

Ex. M7 : Copy of Annexure-I to the DTO 199/2002 reg. guidelines for standing board constituted for the purpose of engagement of daily wage labourers, Naval Dock Yard, Visakhapatnam.

Ex. M8 : Copy of reply to Assistant Labour Commissioner(C), Visakhapatnam vide Lr. No. PES/8401/OA219/99 dt. 13-3-2003.

नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न नवल कमांड के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 134/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-14025/2/2011-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1145.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 134/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Eastern Naval Command and their workmen, which was received by the Central Government on 1-4-2011.

[No. L-14025/2/2011-IR(DU)]

JOHAN TOPNO, Under Secy.

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT AT HYDERABAD**

**PRESENT : Shri VED PRAKASH GAUR,
Presiding Officer**

Dated the 24th day of February, 2011

INDUSTRIAL DISPUTE L. C. No. 134/2004

Between :

Sri Revu Raju,
S/o Late Sri Appanna,
D. No. 36-95-105, Babujinagar,
Kancherapalem Post,
Visakhapatnam-8.Petitioner

AND

1. The Vice Admiral,
Chief of Personnel,
Eastern Naval Command,
Visakhapatnam - 530014.
2. The F.O.C. in C.,
HQ. Eastern Naval Command,
Visakhapatnam - 530014.
3. The Material Superintendent,
Material Organization,
Visakhapatnam - 530008.Respondents

APPEARANCES :

For the Petitioner : Sri K. Balakrishna, Advocate.

For the Respondent : Sri D. Ramesh, Advocate.

AWARD.

This petition under Sec. 2 A (2) of the I.D. Act, 1947 has been filed by Sri Revu Raju, an ex-employee of Material Organization, Visakhapatnam under the Eastern Naval Command, challenging the order of removal from service dated 6-3-2002, that it is violative of principles of natural justice, illegal, arbitrary and excessive.

2. The Petitioner in his claim statement has contended that he was appointed as unskilled labour in the management Organization on 2-4-1979. While serving in the said post he was removed from service on 6-3-2002. At that time he was drawing a salary of Rs. 5,300. During course of his employment a baseless report was made by Secretary, A.P.S.T., S. C. Association, Visakhapatnam to the District Collectorate, Visakhapatnam vide letter dated 5-1-1987 who sought the Naval Armament Supply Officer report and asked to furnish particulars of some other workman inter alia the letter dated 2-2-1988 sent photocopy of the certificate submitted through M.R.O., Kothavalasa challenging the genuineness of the certificate on the basis of which the management issued charge memo No. NS/E/1107 dated 30-1-1992. On the basis of which the management initiated an enquiry regarding genuineness of the certificate submitted by the workman. A hush-hush inquiry was held in derogation of the principles of natural justice and Enquiry Officer submitted his report on 28-7-2001. On the basis of such infirmed report the Petitioner was removed from the service. The workman filed appeal before first management which was rejected by the first management on 27-1-2003.

3. It has been alleged by the workman that the M.R.O., Kothavalasa, Vizianagaram District or the management were not invested with the power of adjudging the genuineness of the social status of the workman. They have acted contrary to the provisions of law and thus, the order of removal of service is bad in law. The Petitioner studied in Z.P. High School, Kothavalasa and school authorities has issued T.C. No. 23493, Admn. No. 439/66 which bears the community to which the workman relates. Moreover, the Petitioner has not been given or extended the privileges conferred on that community. During the departmental enquiry he was given deaf ear and no proper opportunity was given to him, hence, he prayed this tribunal to adjudicate the matter and quash the order of termination.

4. Respondent management has filed counter statement wherein it is alleged that the Petitioner was initially appointed on casual basis, the contention of the Petitioner that he has unblemished record is incorrect because he was charge-sheeted on 30-1-92 and enquiry was ordered. The District Collector vide his letter dated 5-12-1987 requested to furnish xerox copy of the caste certificate submitted by the workman stating that Andhra Pradesh S.T., Association has complained that workman has submitted false caste certificate for the purpose of gaining employment. The caste certificate submitted by the workman was referred to the District Collector, Visakhapatnam who referred the same to the District Collector, Vizianagaram. District Collector, Vizianagaram vide his report dated 16-10-1990 reported that the M.R.O., S. Kota has reported that "(A) certificate dated 8-12-1996 submitted by the workman was not issued by the then Tahasildar, S.Kota and he further stated that the certificate is a forged certificate, (B) the Mandal Revenue Officer, Kothavalasa where village Kothavalasa constitutes

reported that there was no person named Sri Revu Raju in Kothavalasa or its Hamlets and there is no person of "Konda Kapu" caste in that village." As the certificate produced by the Petitioner was found to be forged one, disciplinary proceeding under Rule 14 of CCS (CC & A) Rules, 1965 were initiated and charge-sheet was issued, enquiry was conducted. The Petitioner workman participated in the enquiry. Enquiry Officer submitted his report that the Petitioner has submitted a forged certificate on the basis of which punishment of removal from service was passed. Petitioner preferred appeal which was rejected. Fair and proper opportunity was afforded to the Petitioner to participate in the enquiry. There is no violation of principles of natural justice. Hence, there is merit in the claim petition and deserves to be dismissed.

5. In the matter before this tribunal the Petitioner has challenged the legality and validity of the enquiry proceeding as such, the question of legality and validity of domestic enquiry was considered by this tribunal and vide its order dated 29-1-2009, this tribunal arrived at the conclusion that the domestic enquiry held by the management was legal and valid and the case was fixed for arguments under Sec. 11A.

6. I have heard both the parties. It has been argued by Learned Counsel for the Petitioner workman that the management has committed illegality in coming to the conclusion that the caste certificate produced by the Petitioner was forged one. Not only that the Petitioner has produced his caste certificate and if that caste certificate was to be ignored or cancelled there is provision in the A.P. Scheduled Caste and Scheduled Tribe and Backward Classes Certificate Act. Section 5 of this Act deals with the cancellation of caste certificate power of which is vested with the District Collector. Caste certificate to the present Petitioner has not been cancelled by the District Collector, as such, the management can not come to the conclusion that the caste certificate produced by the Petitioner is not a genuine document or is a forged document. No authority or power has been vested in any person than that of the Collector of the district from where the caste certificate has been issued. In the present case the authority has not followed the procedure laid down in A. P. Scheduled Caste Scheduled Tribe and Backward Classes Certificate Act of 1983, as such, the entire action taken without following the procedure mentioned in the caste certificate Act of 1993 is futile and without jurisdiction and order passed on basis of a without jurisdiction finding or recommendation of such authority which has no jurisdiction to cancel the caste certificate is illegal, arbitrary and deserves to be set aside.

7. Against this argument of the Learned Counsel for the Respondent Petitioner workman, Learned Counsel for the Respondent has argued that in the matter of the Petitioner workman the management has not cancelled caste certificate issued by the competent authority i.e., Collector of the District, Vizianagaram. Present case is not a case of

impersonation of the wrong person or caste. It is a case of forged certificate which has not been issued by the office of the Collector of the Vizianagaram or M.R.O., Kothavalasa. The present case is a case of non-existent document and in that case if the authority comes to this conclusion on the basis of the evidence produced during enquiry that the alleged certificate has never been issued by the competent authority but it is out of the vexatious mind of Petitioner workman, then in that case the question is not of cancellation of such document, in such case only the document has to be ignored. In the present case the management has not started proceeding for the cancellation of the certificate but the management has simply enquired about the existence of the certificate i.e., whether the certificate was issued by the office of the Collector, Vizianagaram as claimed by the Petitioner and the Enquiry Officer concluded that the caste certificate produced by the Petitioner workman was never issued from the office of the Collector or Mandal Revenue Officer, Kothavalasa. The Petitioner has gained appointment on the basis of this forged caste certificate, as such, the Enquiry Officer submitted his report that the alleged certificate is a forged document or is a non-existent document. Whereas the Petitioner has relied on this document and obtained job on basis of it, thus, he has committed fraud with Government of India. He produced a false caste certificate for gaining job. Thus, the action of management is within its jurisdiction. The management has not committed any act beyond its jurisdiction.

8. I have considered the above argument and on the basis of the argument I have gone through the material available before this tribunal.

9. This tribunal has to determine,

- (I) Whether the action of the management in terminating the services of the Petitioner workman w.e.f. 6-3-2002 is justified or not?
- (II) Whether the Petitioner workman is entitled for any relief or not?

10. **Point No. (I) :** This is the crucial point in the present case wherein Learned Counsel has argued that the dismissal order passed against the Petitioner workman is illegal, the management has exceeded its jurisdiction in deciding the question of genuineness of the caste certificate and coming to the conclusion that the document is a forged one Learned Counsel of workman has relied upon Sec.5 of the A.P. SC., ST and BC Act. I have gone through the provisions of Sec. 5 of A. P. S. C., S. T., & B. C. Act, it is a provision for the cancellation of the certificate granted to a person who impersonated himself to be of a particular caste which comes within the purview of a Scheduled Caste or Scheduled Tribe caste. If a person impersonates before the Collector of the District or M.R.O., that he belongs to a particular caste which is a Scheduled Caste or Scheduled Tribe caste and obtained caste,

certificate on false personation to obtain job, later on if it comes to the notice of the Collector of the District or M.R.O., of the Tahsil that the person to whom such certificate of Scheduled Caste or Scheduled Tribe category has been issued is not a member of such caste then in that case, the provision of Sec.5 of the A.P. SC, ST and BC certificate Act will come into play.

11. In the present case the Collector's office has reported that the alleged certificate produced by the Petitioner workman before the employer for obtaining the job as a member of Scheduled Caste was never issued from the office of the Collector or M.R.O., Kothavalasa, S. Kota Tahsil then, the question of cancellation of certificate does not arise. In the present case the management has not cancelled any certificate and I am convinced and agree with the argument of the Learned Counsel for the Petitioner that if a wrong certificate has been obtained by a person impersonated himself to be a member of a particular Scheduled Tribe then, his certificate has to be cancelled by the Collector of the District who has issued the certificate but where the certificate itself has not been issued by competent authority either from the office of the Collector or from the Tahsil or Mandal Office, then the genuineness of such certificate has to be considered at the end of the person who has relied upon such certificate and on the reliance of such certificate job of a Scheduled Tribe candidate has been offered to the Petitioner. Thus, in the present case Sec. 5 of cancellation of caste certificate mentioned in A.P., SC, ST and Backward Classes Act does not come into play and it is not applicable in the present case. The argument of the Learned Counsel for the Petitioner that the management has not followed the provision of Sec. 5 of Certificate Act of 1993 is baseless and groundless. The argument is only to confuse the court between a certificate issued by the competent authority and a certificate which was not issued by any competent authority.

12. In the matter of the present Petitioner it is a case of non-issuance of the certificate from the office of a competent authority. In that case the management was competent to enquire into the genuineness of the certificate and on the basis of the evidence placed before the management during domestic enquiry proceeding, the management was able to come to conclusion that the certificate produced by the Petitioner workman was a forged certificate, it was not issued by the competent authority, it is a brain child of the Petitioner workman himself, as such, the management has not committed any illegality or irregularity. Since the provision of Sec.5 of Cancellation of Certificate Act, 1993 is not applicable in this case because it was not a case of cancellation of certificate, as such, entire arguments advanced by Learned Counsel for the Petitioner is of no help to the Petitioner.

13. This tribunal is of the opinion that the Petitioner workman has produced a self-made certificate not issued

from office of competent authority, as such, it is a case of non-existent certificate and the Petitioner workman can not gain the benefit of such a forged certificate.

14. Learned Counsel for the Respondent has relied upon case law reported in AIR 1995 Supreme Court Cases page 1506 between Director of Tribunal Welfare, Government of Andhra Pradesh Vs. Laveti Giri and Another wherein Hon'ble Supreme Court has held that the "Burden to prove the social status of the person always lies on that person who propounds to seek constitutional, social, economic advantages. It is no part of duty of state to disprove or otherwise." It has further been held that under Article 15(4) of the Constitution of India there is issuance of the social status certificate and there is procedure of issuance of certificate, their scrutiny and their approval indicated. In the present case the Petitioner has filed his social status certificate in that case it was his duty to prove that the Petitioner belongs to the particular community and he was issued with such certificate from a competent authority. In the present case the Petitioner has gained appointment on the basis of a false social status certificate, thereby he has deprived the genuine right of a Scheduled Caste or Scheduled Tribe candidate, as such his action is a grave misconduct.

15. Learned Counsel for the Petitioner workman has relied on a series of case laws and has argued that the power of cancelling the certificate vests with the Collector. He has relied on a recent Supreme Court judgment reported in 2010 LAB I.C. 2491 wherein the Petitioner of that case was appointed on basis of an invalid caste certificate but his claim was accepted the government and he was directed to be reinstated in service.

16. This case law is not applicable in the present case because, the present Petitioner has not filed an invalid caste certificate but he has filed a certificate fabricated and prepared by himself. Learned Counsel for the Petitioner has further relied on case law reported in 2002 LAB I.C. 1820 of Hon'ble High Court of A.P., wherein order of dismissal was set aside for non-compliance of mandatory provision. Learned Counsel has argued that the mandatory provisions of Sec. 5 of Cancellation of Certificate has not been applied with. But this case law is also not applicable in the present case because the provision of Sec.5 of the Cancellation of certificate does not come into play as such, the non-compliance of mandatory provision does not arise in the present case. No other point has been argued by the Learned Counsel for the Petitioner workman or Respondent.

17. During course of the enquiry Petitioner has not been able to produce a single resident of alleged village of Kothavalasa that the Petitioner was a resident of that village or the Petitioner belongs to 'Konda Kapu' caste which was the duty of the Petitioner to prove before the Enquiry Officer. It was the duty of the Petitioner workman to prove before the Enquiry Officer that the certificate produced by him is a genuine certificate issued from the office of the

Collector or M. R. O., Kothavalasa which he failed during course of enquiry, the enquiry has been held to be legal and valid, as such, this tribunal is of view that the Petitioner has obtained employment on the basis of forged caste certificate which was never issued from the office of the Collector or M.R.O., Petitioner knowingly and intentionally produced a fabricated and forged certificate to claim the benefit of Scheduled Caste or Scheduled Tribe candidate which was found to be fictitious and forged, as such, the imposition of the punishment removal from service is neither excessive nor disproportionate. In the matter of Union of India Vs. Krishna and Others reported in 2008(2) LLJ page 852 Hon'ble Supreme Court held that punishment of compulsory retirement from service was proper where the employment was secured on the basis of bogus community certificate. The present case is also of gaining of employment on the basis of a fabricated caste certificate as such, the punishment is proportionate and justified. Point No. (I) is decided accordingly.

18. Point No. (II) : The Petitioner has not been able to prove that the punishment is excessive or disproportionate or illegal or arbitrary as such, he is not entitled for any relief. It has been argued by the Learned Counsel for the Petitioner that Petitioner has put in 23 years of service as such, a lenient attitude should be adopted in his favour. I have considered this argument and I am of the definite view that Petitioner has obtained employment on the basis of fabricated caste certificate as such, he is not entitled for any sympathy. He has already gained benefit of employment for 23 years on the basis of forged certificate and he should not be allowed further to gain any benefit out of the fabricate certificate. He is not entitled for any relief. Point No. (II) is decided accordingly.

19. In view of the above discussion, this tribunal is of the definite view that petition is devoid of any merit. Petitioner does not deserve any relief from this tribunal and petition deserves to be dismissed. Workman is not entitled for any relief. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 24th day of February, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witness examined
for the Petitioner

Nil

Witnesses examined
for the Respondent

Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1146.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्ट मास्टर जनरल, पुणे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम व्यायालय, पुणे के पंचाट (संदर्भ संख्या -) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था।

[सं. एल-40012/134/2004-आई आर (डी यू)]

जोहन तोप्नो, अवर सचिव

New Delhi, the 1st April, 2011

S.O. 1146.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (Ref. No. —) of the Central Government Industrial Tribunal-cum-Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Post Master General, Pune and their workmen, which was received by the Central Government on 1-4-2011.

[No. L-40012/134/2004-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER THIRD LABOUR COURT, PUNE AT PUNE

Reference (IDA) No. 99/2005

The Post Master General,

Pune Region,

C/o. PMG,

Pune - 411 001

...First Party

AND

Smt. Anusaya R. Dalvi,
Survey No. 59-A/1, Ushakal Housing Society,
Tavade Vasti Mohamadwadi Road,
Hadapsar,

Pune - 411 028

...Second Party

APPEARANCES:

Coram : Shri R. M. Pande

Appearances : Mrs. Sandhya Deshpande —Adv. for
First Party

Mr. G. S. Ogale —Adv. for
Second Party

ORDER ON PRELIMINARY ISSUE No. 1 AND 2

AWARD-I

(Delivered on this 2nd day of February, 2011)

The demand of the Second Party that she be reinstated in service with continuity and full back wages is

referred to this Court for adjudication as per reference order dated 12-1-2005 at Exh. 1. After receipt of this order notices were issued to the concerned parties and the Second Party and First Party have filed their statement of claim and written statement respectively.

2. The contention of the Second Party in the statement of claim at Exh. 5 is such that she worked as post woman with the First Party No. 3. Subsequently, she was transferred to Guruwar Peth Post Office and there she was working as a Stamp Vendor. While working as Stamp Vendor, she had to sell the postal stamps. If any customer wants to buy stamp of more than Rs. 30 then the stamp vendor has to inform the postmaster and the postmaster gives required quantity of stamp to the stamp vendor and thereafter the stamp vendor sells stamps to the customer.

3. The Second Party has made certain allegations against Mr. S. K. Raskar, Postal Assistant who was working in the Post Office. It is further contended that Advocate Bharat Shinde used to purchase stamp from the Post Office in bulk purchase and there used to be credit transactions with consent of the postmaster of the Guruwar Peth Post Office. According to her she was well aware of her day to day duties and she used to keep proper transactions of the stationery, money orders. She was given additional work of helping additional staff worker and therefore, she could not write/maintain the balance register on 20-5-1998 and 21-5-1998. On 22-5-1998 Mr. Dhumal, a clerk of the Advocate Bharat Shinde made bulk purchase of the stamps and it was made directly from Mr. S. K. Raskar.

4. It is further contended that on 22-5-1998, the Senior Superintendent of the Post Office visited Guruwar Post Office and carried inspection. After inspection, chargesheet was given to the Second Party alleging that she has committed misconduct. It is alleged that the charges levelled against the Second Party were such that there was a short cash of Rs. 2919.85 out of sale of postage stamp of Rs. 5860. Likewise, it is alleged that there was utter negligence and carelessness in her duty with lack of sense of integrity. Further it was also alleged that she failed to maintain the register of stamp of her branch and did not put before the Superintendent of Postmaster for verification of the balance. Of these charges, enquiry was held against her. The Second Party alleged that all these allegations were false and bogus and she did not commit any misconduct as alleged. The Second Party in detail has submitted the instances as to how the charges were not correct and how the report of the Enquiry Officer is not acceptable. As the issue for consideration at present is preliminary one, I will not take into consideration the detailed submissions made by the Second Party regarding the charges and the enquiry held against her. However she repeatedly contended that the enquiry conducted against

her is illegal and report is not acceptable. She has not conducted any misconduct. As such, she has prayed that she is entitled for reinstatement with full back wages and continuity of service.

5. The First Party filed written statement at Exh.12. The contentions of the Second Party have been denied by the First Party. The foremost contention of the First Party is such that the postal department is established by Union of India. According to the First Party, the postal department is not an Industry and it does not come under the definition of Industry under the Industrial Disputes Act, 1947. It is further foremost contention of the First Party that the postal department is the department of Central Government. The service terms and conditions, appointment etc. of the employees whether temporary or permanent are governed by Central Civil Services Rules and Fundamental Rules and Supplementary Rules and various postal manuals and government notifications. According to the First Party the employee of the postal department are not workman. As such, the reference is not maintainable. The First Party is not an Industry and the Second Party is not a workman within the meaning of Industrial Disputes Act, 1947.

6. After making these specific contentions the rest of the contentions of the Second Party have been specifically denied by the First Party. It is denied that the enquiry conducted against the Second Party is illegal. It is denied that the charges levelled against the Second Party are false and bogus. According to the First Party on 22-5-1998 during the surprise visit of SSPO, Pune the cash and stamp balance with the Second Party was checked and it was found short by Rs. 2919.85. Further the Second Party was not in a position to give satisfactory reasons for such shortage. She admitted the same. Therefore the disciplinary action under Rule 14 of Central Civil Services Rules was initiated and disciplinary enquiry was conducted against the Second Party. In the said enquiry full opportunity was given to her. As the Second Party was found guilty of the charges levelled against her she is removed from the services but in appeal the punishment was modified to compulsory retirement. On all these counts, it is initially contended by the First Party that the reference is not maintainable and further the Second Party is not entitled for any of the reliefs as claimed. Hence, according to the First Party reference is required to be answered in negative.

7. On the above case of the parties my learned predecessor framed issues at Exh.16. As per note below this issue no.1 and 2 were treated at preliminary issue. I reproduce these preliminary issues alongwith my findings thereon against them with reasons to follow :

PRELIMINARY ISSUE

FINDINGS

1. Whether the reference is maintainable ?

Yes

2. Whether the First Party is an Industry within the meaning of Section 2 (j) of the Industrial Disputes Act ?

Yes

3. What award ?

Reference is maintainable and First Party is an Industry.

REASONS

8. Preliminary Issue No. 1 and 2 : In support of her case the Second Party lead her evidence by filing her affidavit at Exh.19. Apart from this, the Second Party relied on her contentions and the enquiry papers. The First Party did not adduce any evidence in support of its case but has relied on the cross examination and the enquiry papers filed on record.

9. The issue for consideration at present is much limited. The First Party has specifically contended that the reference is not maintainable and the First Party is not an industry. In support of its case, the First Party took me through the entire pleadings of the Second Party and submitted that there is no averment in the entire statement of claim that the postal department is an Industry and the Second Party is a workman. According to the Learned Advocate —Mrs. Deshpande for the First Party, in the absence of such pleading the entire reference is not maintainable. Further relying on the case of Sub-Divisional Inspector of Post, Vaikam and others Vs. Theyyam Joseph and others reported in 1996 (8) SCC 489, it is submitted that the post and telecom department is not an Industry. In support of its contention regarding the applicability of the Industrial Dispute Act, the Learned Advocate Mrs. Sandhya Deshpande, for the First Party, relied on the case of Director of Postal Services Vs. KRB Kaimal and another reported in 1984 (1) SLR Page 501. It is further repeatedly submitted that the service conditions of the Second Party would be Governed by the Central Civil Services Rules and as per the provisions of these rules the Second Party cannot raise dispute nor this Court has any jurisdiction to try the present reference. Three points which has been vehemently argued by the Learned Advocate — Mrs. Deshpande for the First Party during the course of argument are such that there is no pleading, the First Party is not an Industry and further as the service conditions of the Second Party is covered by Central Civil Rules this Court has no jurisdiction to try the present reference.

10. As against this the Second Party submitted that the First Party is an Industry and the Second Party is a workman. Further the reference is sent by legal process and if at all the Second Party has to challenge the same, then it has to approach the appropriate Court and not this

Court. Further it is contended by the Second Party that the contention of the First Party that the First Party is not an Industry is not acceptable. Now it has been ruled out by the Hon'ble Apex Court that the post department is an Industry. Further in view of the provisions of the Administrative Tribunal Act, the Second Party has an option to choose forum and as such the reference is maintainable.

11. Apart from the oral evidence which has been adduced by the Second Party on record, it will have to be seen as to whether the First Party is an Industry and therefore, the reference is maintainable. Regarding this as stated above, the First Party has relied on the case of Sub-Divisional Inspector of Post, Vajkam and Others Vs. Theyyam Joseph and others reported in 1996 (8) SCC 489. I have gone through the case relied by the learned Advocate for the First Party. However in the subsequent Judgment of the Hon'ble Supreme Court in the case of General Manager, Telecom Vs. S. Srinivasan Rao and Others reported in 1998 (1) 106 SC Service Law Judgments, it has been held that the Telecom department of the Government of India is an Industry. In this case, the Theyyam Joseph case on which the First Party has placed reliance is been referred by the Hon'ble Supreme Court. Further the Hon'ble Supreme Court has also made reference to the case of Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others reported in 1978 (2) SCC 213. Accepting the view of Bangalore Water Supply case the Hon'ble Supreme Court has ruled out that the Telecom department of the Government is an Industry. As such, in view of the observations of the Hon'ble Supreme Court in the cited case SUPRA, it can very well be stated that the Telecom department of Central Government in which the Second Party is working is an Industry. The learned Advocate—Mr. Ogale, for the Second Party has further relied on the case of Asha Ram Vs. Divisional Engineer, Telecom Department reported in 2000 III CLR 403 wherein it has been held by the Hon'ble Supreme Court that the Telecom Department is an Industry.

12. The learned Advocate—Mr. Ogale, for the Second Party, has further placed reliance on the case of Management of Indian Institute of Horticultural Research (IARI) Vs. Sashikala reported in LIC 2005 P—1661 and submitted that it has been observed by the Hon'ble High Court that the workman has two avenues to choose and there is no embargo for the workman to choose any one of these two avenues.

13. I have gone through the cases relied by learned Advocate for the Second Party. It has been observed by the Hon'ble High Court in this case that there cannot be any dispute that the service matters pertains to establishment. Petitioner can be adjudicated before the Central Administrative Tribunal but in view of the express provision made u/s 28(b) of the Act, the jurisdiction of the

Industrial Tribunal/Labour Court is saved. In view of these observations of the Hon'ble High Court and the facts of the present case, I find that the arguments of the learned Advocate—Mrs. Deshpande, for the first Party cannot be accepted. It is clear that reference is maintainable and this Court has jurisdiction to try the present dispute. As the Telecom Industry is held to be an Industry, the workers working in the said department would be the workman within the meaning of the Act.

14. To consider the argument of the learned Advocate—Mrs. Deshpande, for the First Party that there is no specific pleading by the Second Party regarding the fact that the Postal department is an Industry and the Second Party is a workman, the entire pleading again will have to be seen. There is clear mention of details of work carried by the First Party as well as Second Party. In view of such pleadings by the Second Party regarding the work carried by the First Party as well as Second Party, I do not find that only because the words such as "First Party is an Industry and Second Party is a workman" is not used by the Second Party it will have to be said that there is no such pleading. Therefore, such an contention cannot be accepted. As said there is detail pleading and even if no such specific words are used, I do not find that such absence of specific words is much fatal to the entire case of the Second Party and for this reason alone, the entire contention of the Second Party will have to be discarded in toto.

15. In view of the case relied by the learned Advocate—Mr. Ogale, for the second party regarding the maintainability and on the point of industry, I find that the observations in these cases as referred above, are much clear and in view of such observations, I hold that the reference is maintainable and the First Party is an Industry within the meaning of Section 2(j) of the Industrial Disputes Act and hence, I answer Preliminary Issue No. 1 and 2 in the affirmative and pass following order :

ORDER

1. The preliminary issue No. 1 and 2 are answered in affirmative.
2. It is hereby held that the reference is maintainable and the First Party is an Industry within the meaning of Section 2(j) of the Industrial Disputes Act.
3. Cost in cause.

Place : Pune

Date : 2-2-2011

R. M. PANDE, Presiding Officer

नई दिल्ली, 1 अप्रैल, 2011

का.आ. 1147.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी.

[भाग II—खण्ड 3(ii)]

लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 93/1990) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-4-2011 को प्राप्त हुआ था ।

[सं. एल-20012/216/1989- आई आर (सी-1)]

New Delhi, the 1st April, 2011

S.O. 1147.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 93/1990) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on 1-4-2011.

[No. L-20012/216/1989-IR (C-I)]

D S S SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of I.D. Act.

REFERENCE NO. 93 of 1990

PARTIES:

Employers in relation to the management of Lalmatia Colliery through Chief General Manager of Rajmahal Project, P.O. Rajmahal Dist Godda of M/s. Eastern Coalfields Ltd.

AND

Their Workmen

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri B. M. Prasad, Advocate.

For the Workman : Shri R. N. Singh, Advocate.
State : Jharkhand Industry : Coal

Dated the 18th March, 2011

AWARD

By Order No. L-20012/216/89-IR (C-I) dated 19-4-90 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the Chief General Manager of Rajmahal Project of M/s. Eastern Coalfields Ltd. in denial of employment to Md. Tamijuddin and 67 others of Lalmatia Colliery, Dist. Godda, figuring in Annexure to the aforesaid notification by not regularising their services for their working as per State Gazette in prohibited category/Stone drift cutting in 1980-81 and prior to that in 1975 is justified? If not, to what relief is the workman entitled ?"

2. The case of the concerned workman is that the concerned workmen were working in stone drift cutting job continuously in 1975 and after that also for quite a long time in Lalmatia Colliery which legally entitled them for employment by their regularisation on its permanent roll but the management stopped their employment on some pretext or the other. When necessity arose management again engaged the concerned workmen in stone drift cutting job from 1980 through intermediaries and they continuously worked as such from 1980 till major part of the year 1981. However, they were again stopped from work. They were paid loss wages during their employment in 1975 and thereafter and in 1980-81 by the management through intermediaries and were denied all other facilities by the management, violating relevant NCWA and other laws and thus their exploitation reached its pitch. From perusal of management's letter Annexure-I it becomes evident that the management admitted employment of 54 workmen out of 68 concerned workmen in the colliery but it did not supply the names of such 54 workmen out of total 68 to the union. The management further extended in the said letter that it was not absolutely correct to suggest that 54 workmen out of 68 worked in drifting operations.

In such circumstances the workmen/union have prayed before this Tribunal to pass an award in favour of the workmen.

3. The case of the management is that the colliery concerned was closed and the issue relates to a period dating back to 10 to 15 years, the management has not preserved any papers. It has been submitted that as per Rule 75 of the Mines Rules, 1955 the management is not required to preserve any records for more than one year after the last entry was made therein. Lalmatia Colliery was in existence for a few years and as already stated above, it was closed w.e.f. 1-9-89 and the workers were transferred to other mines of E. C. Ltd. The management of Lalmatia Colliery did not engage at any time any contractor in prohibited category or stone drift cutting in 1980-81 or at any other item or in 1975 and the workers of contractors were not also workers of the management and so, they cannot claim to regularised in the services of the management.

It has been prayed that this Hon'ble Tribunal be pleased to hold and decide that the persons concerned

were never employed by the management of Lalmatia Colliery and that the Chief General Manager, Rajmahal Project is not required to regularise any of the persons concerned and in consequence they are not entitled to any relief whatsoever.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman has produced WW-1, Bhola Prasad, WW-2, Salim Ansari and WW-3, Anwarul Hoda and documents have been marked as Exts. W-1 to W-3/2.

The management has produced MW-1, Jagdish Chandra Mandal who has proved documents as Ext.M-1 to M-3 and management has also produced MW-2, Sunil Rajan Ghosh.

6. Main argument advanced on behalf of the concerned workman is that they are doing permanent nature of jobs of slurry removed and the management is paying them less wages than their actual wages. It has also been argued that the management admitted employment of 54 workmen out of 68 concerned workmen in the colliery but it did not supply the names of such 54 workmen out of total 68 to the union.

7. In this respect the management representative argued that Lalmatia colliery was closed w.e.f. 1-9-89 and the workers were transferred to other mines/establishments of Eastern Coalfields Ltd. The management of Lalmatia colliery did not engage at any time any contractor in a prohibited category or stone drift cutting. It has also been argued that there is no relationship of master and servant between the workmen and the management. So, they cannot be regularised.

8. In this respect the concerned workman has produced WW-1, Bhola Prasad who has stated in cross-examination at page 2 that I was given authorisation and work plan to supervise the work of stone drift but I cannot say if these documents would be available with me. He has also stated that I had to write down the work done every day in the Overman's Diary which I had done while supervising aforesaid work of stone drift. I cannot file these diary as these diaries were placed at the table of the Manager. Everyone working there got identity card, so I have one. It has also been stated that E.C.L. advertisements are issued for vacancies the candidate interviewed and successful ones are given appointment letters. I have not been any documents showing that the concerned workmen were appointed in the colliery. Any contractor given work by the management is issued work order for the same. I cannot say that any work order was issued in the name of any of the concerned workmen for the work of stone drift. I am not aware of any other contractor having been issued work order and the concerned workman

working under him. In page 3 he has also stated that during the year 1980 to 1982 no contract work was going on in the mine. WW-2, Salim Ansari, at page 2 of his cross-examination stated that regular employees of the company, earlier or even today got their wages once in a month. They also were given Identity Card, Earlier they were not issued pay slips but biw-a-days they are so issued. None of the concerned workmen were given Identity Cards or pay-slips or appointment letters. I have also done the work of shot-firer. For this did not get any authorisation letter from the Manager. He has also stated that we also operated the pump. We do not know what is soon WW-3, Anwarul Hoda, in his cross-examination at page 2 stated that I am not an employee in the colliery. The concerned workmen were not given appointment letters or Identity Cards. Lalmatia Colliery never remained closed. At page 3 he has further stated that I have no paper to show functioning of this colliery.

9. Management's witness MW-1, Jagdish Chandra Mandal stated clearly Lalmatia colliery has been closed since 1989. The closure notice duly signed by the then Manager, Sri Rai as per Ext.M-2. Ext.M-3 is blue print of mine plan of Lalmatia Coal Mine which map would show that whatever stone drift was driven in the mine, that was order to 31-12-72.

When the colliery has been closed since 1989, no question of giving regularisation of the concerned workmen does not arise. Moreover, no paper has been filed on behalf of the concerned workman to show that they have been any Identity Card, gate pass or pay slips by the management, so that the management can regularise them. No contractor has been produced by the concerned workmen which may show that the concerned workmen were working under any contractor.

10. The concerned workmen referred AIR 1999 Supreme Court 1160, 1996 Lab. I. C. 2207, 1997 Lab. I. C. 365.

11. The management has referred (2009) 2 Supreme Court Cases (L&S) 259 in which Uma Devi's case reported in 2005 Supreme Court (L&S) 763, has been considered and Hon'ble Supreme Court has laid down the effect of Uma Devi's case. So, in public sector undertaking employment cannot be given in violation of Art.14 of the Constitution of India.

12. Considering the above facts and circumstances I hold that the action of the Chief General Manager of Rajmahal Project of M/s. Eastern Coal Fields Ltd. in denial of employment to Md. Temijuddin and 67 other of Lalmatia Colliery, Dist. Godda figuring in Annexure to the aforesaid Notification, by not regularising their services for their working as per State Gazette in prohibited category/Stone drift cutting in 1980-81 and prior to that in 1975 is justified and hence the concerned workmen are not entitled to any relief.

H. M. SINGH, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2011

Tirupur District

3. Uppilipalayam
(Avinashi West)
4. Cheyur
5. Muriyandampalayam
6. Magarasu Valayapalayam
7. Thandukaram Palayam
8. Kanur
9. Pappankulam
10. Pothampalayam
11. A. Vadugapalayam

[No. S-38013/26/2011-S.S.-I]
S. D. XAVIER, Under Secy.

नई दिल्ली, 8 अप्रैल, 2011

का.आ. 1148.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मई, 2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गांव
तिरुप्पूर जिला	1. करुवालूर
पश्चिमी अविनाशी उपनगर	2. रामनाथपुरम (पश्चिमी अविनाशी)
	3. उपिल्लीपालयम (पश्चिमी अविनाशी)
	4. चेयूर
	5. मुरियाण्डप्पालयम
	6. मगरासू वलयपालयम
	7. तण्डकारप्पालयम
	8. कनूर
	9. पाप्पन कुलम
	10. पोतम्पालयम
	11. ए. वडुगपालयम

[सं. एस-38013/26/2011-एस.एस.-I]

एस.डी. जेवियर, अवर सचिव

New Delhi, the 4th April, 2011

S.O. 1148.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employee's State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st May, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

CENTRE	AREA COMPRISING THE REVENUE VILLAGES OF
West Avinashi	1. Karuvalur
Suburbs Avinashi Taluk	2. Ramanathapuram (Avinashi West)

का.आ. 1149.—जबकि मैसर्स बंगल लैमिटेड कूट संख्या डब्ल्यू बी/288 कोलकाता क्षेत्र (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) को कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 की धारा 17 (1) (क) के अंतर्गत दिनांक 1-11-1952 से छूट प्रदान करते हुए भारत के राजपत्र में दिनांक 8-1-1963 की अधिसूचना प्रकाशित की गयी थी ।

2. जबकि बंगल लैमिटेड ने कर्मचारी भविष्य निधि योजना, 1952 के पैरा 27 के परिशिष्ट -क में वर्णित छूट की शर्तों का उल्लंघन किया है और जिसके द्वारा कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के अधिनियम के खण्ड (क) के अंतर्गत भारत सरकार द्वारा प्रदान की गई छूट रद करने योग्य है ।

3. जबकि प्रतिष्ठान को दिनांक 23 सितम्बर, 2010 को कारण बताओ नोटिस जारी करते हुए उक्त नोटिस प्राप्त होने के 15 दिनों के अंदर अपना उत्तर प्रस्तुत करने हेतु एक अवसर प्रदान किया गया था और दिनांक 27-10-2010 के उनके उत्तर (मंत्रालय में दिनांक 9-11-2010 को प्राप्त) की जांच करने के पश्चात् केन्द्रीय भविष्य निधि आयुक्त के परामर्श से यह पाया गया है कि यह सन्तोषजनक नहीं है ।

4. अतः, अब केन्द्र सरकार, कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 की धारा 17 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा उक्त प्रतिष्ठान को दी गई छूट को तत्काल प्रभाव से रद करती है ।

[सं. एस-35017/18/2010 एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 8th April, 2011

S.O. 1149.—Whereas a notification dated 8-1-1963 granting exemption w.e.f. 1-11-1952 under section 17 (1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to the M/s Bengal Lamps Limited under code No. WB/288. Kolkata region

(hereinafter referred to as the establishment) was published in the Gazette of India.

2. Whereas M/s Bengal Lamps Limited has violated the conditions of exemption delineated in Appendix-A of Para 27A of the Employees' Provident Funds Scheme, 1952 and thereby deserves the cancellation of exemption granted by Government of India under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

3. Whereas the establishment was given an opportunity on 23rd September, 2010 to file its reply to the Show Cause Notice within 15 days of the receipt of Notice and after examining their reply dated 27-10-2010 (received in the Ministry on 9-11-2010) in consultation with Central Provident Fund Commissioner, it has been found that the same is not satisfactory.

4. Now, therefore, in exercise of the powers conferred by sub-section (4) of section 17 of the EPF and MP Act, 1952 the Central Government hereby cancel the exemption granted to the said establishment with immediate effect.

[No.S-35017/18/2010-S.S.-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 1150.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मई, 2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपर्यं तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गाँव
मंगलम	1. चिन्नुतूर
तिरुप्पूर तालुक	2. पेरियुपुतूर(या) अग्रहारपुतूर
तिरुप्पूर जिला	3. वेट्टुवपालयम
	4. पुक्किलिपालयम
	5. पोंगयकौँडनपुतूर
	6. मंगलम
	7. गनपतिपालयम
	8. चेट्टिपालयम.
	9. सुल्तानपेट

[सं. एस-38013/34/2011-एस.एस.-1]

एस.डी. जेवियर, अवर सचिव

New Delhi, the 15th April, 2011

S.O. 1150.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st May, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

CENTRE	AREA COMPRISING THE REVENUE VILLAGES OF
Mamgalam	1. Chinnaputhur
Tirupur Taluk	2. Periputhur (or) Agrahara Pudhur
Tirupur District	3. Vettuvapalayam
	4. Pukkilipalayam
	5. Pongai Goundenpudhur
	6. Mangalam
	7. Ganapathy Palayam
	8. Chettipalayam
	9. Sultanpet

[No. S-38013/34/2011-S.S.-I]
S. D. XAVIER, Under Secy.

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 1151.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मई, 2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपर्यं तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गाँव
आलमेलुमंगापुरम	1. आलमेलुमंगापुरम
वेलूर तालुक	वेलूर जिला

[सं. एस-38013/36/2011-एसएस-1]

एस.डी. जेवियर, अवर सचिव

New Delhi, the 15th April, 2011

S.O. 1151.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st May, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

CENTRE	AREA COMPRISING THE REVENUE VILLAGES OF
Alamelumangapuram Vellore Taluk Vellore District	1. Alamelumangapuram

[No. S-38013/36/2011-S.S.-I]
S. D. XAVIER, Under Secy.

नई दिल्ली, 15 अप्रैल, 2011

का.आ. 1152.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 1 मई, 2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गाँव
कनगगिरी	1. कनगगिरी
संकरी तालुक	2. कंदरकुला मानिककम
सेलम जिला	3. एरनापुरम (मगुदनचावडी)

[सं. एस-38013/35/2011-एस.एस-1]

एस.डी. जेवियर, अवर सचिव

New Delhi, the 15th April, 2011

S.O. 1152.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st May, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

CENTRE	AREA COMPRISING THE REVENUE VILLAGES OF
Kanagagiri	1. Kanagagiri
Sankari Taluk	2. Kandarkula Manickam
Salem District	3. Erapuram (Magudanchavadi)

[No. S-38013/35/2011-S.S.-I]
S. D. XAVIER, Under Secy.